

Crime, Courts and Community in Mid-Victorian Montgomeryshire

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Thesis submitted in fulfilment of the requirements
for the degree of Ph.D.


Aberystwyth University
Department of Law and Criminology
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For my parents

Who never let me down

Declarations

This work has not previously been accepted in substance for any degree and is not being concurrently submitted in candidature for any degree.

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Abbreviations

<i>D.N.B.</i>	<i>Dictionary of National Biography</i>
<i>H.M.I.C.</i>	Her Majesty's Inspector of Constabularies
<i>M.E.</i>	<i>Montgomeryshire Express</i>
<i>Mont. Colls</i>	<i>Montgomeryshire Collections</i>
<i>N.W.E.</i>	<i>Newtown and Welshpool Express</i>
<i>P.C.A.</i>	Powys County Archives
<i>P.P.</i>	<i>Parliamentary Papers</i>
<i>T.N.A.</i>	<i>The National Archives</i>

Summary

This study uses extant court records to investigate the relationships among crime, courts and the larger community during the 1870s. Class, gender experience and control are themes that run through the work, and conclusions are made about how these were represented and reinforced by the criminal justice system. Montgomeryshire was chosen for its dual agricultural and industrial character, as well as its long border with England which had an impact on its cultural characteristics. The structure of the thesis mirrors the way in which a criminal case could journey through the justice system – from first appearance before the magistrates to the higher court of Quarter Sessions or to the Assizes. The input of the community is highlighted, and the county police force – one of the earliest to be established in the country – is studied throughout, with an investigation of its impact on the general public, and on crime figures.

The current increasing focus on women's experience of crime and the legal system is reflected in this work, as well as historical geography, and newer studies on the effect of the environment. The thesis answers a call for a study of history 'from below interacting with history from above', and shows how the criminal justice system, status and identity were interlinked.

Chapter 1

Introduction

Aims, Structure and Methodology

Rationale

The aim of this thesis is to examine the nature of social relations through the medium of the criminal justice system in mid-Victorian Montgomeryshire, Wales. In particular, class interaction and the comparative experiences of women will be studied, and conclusions made about the extent to which these both influenced and were reinforced by the established legal procedures. In doing so, the intention is to further the understanding of local administration of justice through the investigation of motivations and the contributions of the various players to the routines of law enforcement. It is a study of the general public and the experiences of ordinary people, the disparate range that could be seen in the criminal courts, from aristocrats to paupers, male and female, the elderly and the very young, agriculturalists and industrialists. Through testimonies and courtroom interaction, details of lives and the social significance of events come to the fore.

In the 1960s, E.P. Thompson published his groundbreaking *The Making of the English Working Class*,¹ which captured the life experiences of workers and was as much an anthropological study as a study of standards of living, wages and political doctrines. Eric Hobsbawm's *Primitive Rebels*,² and George Rudé's *The Crowd in the*

¹ E.P. Thompson, *The Making of the English Working Class* (London, 1963).

² E.J. Hobsbawm, *Primitive Rebels: Studies in Archaic Forms of Social Movement in the 19th and 20th Centuries* (Manchester, 1959).

French Revolution and *The Crowd in History*,³ were also influential in directing ethnographic studies that magnified the hitherto unexplored contributions of the lower orders. Rudé's work focused on uprisings and disturbances, identifying their catalysts and showing a marked sympathy for the oppressed. The present work will identify court outcomes as catalysts for crowd responses. More recently, Mark Harrison has studied the details of crowd action, scaling down from the very much bigger picture to a more local context, in which he explains the significance of, for example, street layout and timing of an event, and interestingly identifies how crowd events were related to local identity.⁴ The local environment is a theme that runs through the current work, and reference will be made to topography including architecture, roads, water courses and woodland. Culture and environment have been identified as inextricably linked, with the association being made obvious at times of strife concerned with the customary rights of rural dwellers. This was discussed by Brian Short, who vividly reconstructs people's lives in the landscape from oral testimony,⁵ and Ben Cowell in his study of an early militant conservation group.⁶ Nick Blomley has identified the powerful role that hedges played in land disputes, and Peter King has identified the spatial dimension to crime as often being neglected.⁷ The disputes King describes frequently involved criminal activity and subsequent court cases, and the present work aims to highlight the study of the landscape in relation to its facilitation of both offending and detection, whether in urban or in rural situations.

³ G. Rudé, *The Crowd in the French Revolution* (Oxford, 1959); G. Rudé, *The Crowd in History: a Study of Popular Disturbances in France and England, 1730-1848* (New York, 1964).

⁴ M. Harrison, *Crowds and History: Mass Phenomena in English Towns, 1790-1835* (Cambridge, 2002).

⁵ B. Short, 'Conservation, class and custom: lifespace and conflict in a nineteenth-century forest environment', *Rural History*, 10 (1999), pp. 127-154; B. Short, 'Environmental politics, custom and personal testimony: memory and lifespace on the late Victorian Ashdown Forest, Sussex', *Journal of Historical Geography*, 30 (2004), pp. 470-95.

⁶ B. Cowell, 'The Commons Preservation Society and the campaign for Berkhamsted Common, 1866-70', *Rural History*, 13 (2002), pp. 145-61.

⁷ N. Blomley, 'Making private property: enclosure, common right and the work of hedges', *Rural History*, 18 (2007), pp. 1-21; P. King, 'The impact of urbanization on murder rates and on the geography of homicide in England and Wales, 1780-1850', *Historical Journal*, 53 (2010), p. 671.

Much of the method of the present thesis thus involves microhistory – where local areas are used to explore wider themes.⁸

During the 1970s the new interest in the history of ordinary people, and the study of the place of crime in those lives was promoted by the publication in 1976 of the seminal *Albion's Fatal Tree: Crime and Society in Eighteenth-century England*, a collection of essays analyzing the attitudes and responses of ordinary people to the eighteenth-century criminal law.⁹ These works introduced the idea that a study of the courts could access the experiences of people about whom little hitherto had been written. The fact that wider society was seen in court meant that the history of the criminal justice system 'was central to unlocking the meanings of eighteenth-century social history',¹⁰ and herein lies the basis of the present work but set in the later nineteenth century.

In his own essay in *Albion's Fatal Tree*, from a Marxist standpoint, Hay asserted that the ruling classes used the criminal justice system as a means of obtaining deference from the lower orders via use of benevolent discretion.¹¹ This was rejected by John Langbein in 'Albion's Fatal Flaws' which he wrote with a Liberal view after researching a small sample of Old Bailey cases spread over a two-year period, which provided an important reply to Hay.¹² Here, while recognising that the class system was played out in court, the procedures of justice were shown to protect the interests of the general public throughout England and Wales. Langbein's work, too, lies at the base of the present work, and his commentary on the importance of jury discretion, in particular, will be built upon.¹³ Langbein cited Peter King's preliminary work on decision-makers which was eventually published in 1984, and argued that Hay's

⁸ B. Reay, *Microhistories: Demography, Society and Culture in Rural England, 1800-1930* (Cambridge, 1996).

⁹ D. Hay, P. Linebaugh, J.G. Rule, E.P Thompson and C. Winslow, *Albion's Fatal Tree: Crime and Society in Eighteenth-century England* (London, 1975).

¹⁰ Hay, *Albion's Fatal Tree*, p. 13.

¹¹ D. Hay, 'Property, authority and the criminal law', *Albion's Fatal Tree*, pp. 17-63.

¹² J.H. Langbein, 'Albion's fatal flaws', *Past and Present*, 98 (1983), pp. 96-120. The sample consisted of 171 cases conducted at four Old Bailey sessions during 1754 to 1756.

¹³ Langbein, 'Albion's fatal flaws', pp. 105-8.

concentration on a small elite presented only a partial picture.¹⁴ This, he said, was because it did not allow for the many-faceted nature of the courts, or for the influence of a whole range of persons on the outcome of a case. The present thesis is not limited to any one group, but examines offenders, victims and witnesses. Thus, it follows the example of King's paper and his subsequent influential book, *Crime, Justice and Discretion in England, 1740-1820*, which builds on his earlier paper and provides a detailed analysis of both people and events.¹⁵ The present thesis, too, encompasses a wide range of offending, not merely the property offences studied by Hay. Most of these multifarious cases were presented at the very lowest court, viz. the Petty Sessions, or summary court. In his paper, 'The summary courts and social relations in eighteenth-century England', King describes a theatre which was most people's experience of the justice system. From a study of five districts over small and mismatched time periods, involving about 2500 cases,¹⁶ King lists breaching of the peace and running away from employment, wandering pigs and water wasting as examples of the cases heard.¹⁷ He argues that the court provided a model of wider social relations, and urges further study by historians. The present study does this, examining over 5000 Petty Sessions cases, and in doing so furthers the work of Jennifer Davis on nineteenth-century police courts (a type of summary court) that found they were more complex than a simple instrument of discipline. They were, she found, readily used by the working classes to obtain satisfaction over disputes.¹⁸

Further work by King included *Crime and Law in England, 1750-1850*, where he considers juveniles and gender issues, customary rights and assaults, and acknowledges the need to look further afield for data, with his coverage including

¹⁴ P.J.R. King, 'Decision-makers and decision-making in the English criminal law, 1750-1800,' *Historical Journal*, 27 (1984), pp. 25-58.

¹⁵ P. King, *Crime, Justice and Discretion in England, 1740-1820* (Oxford, 2000).

¹⁶ See Appendix in P.J.R.. King, 'The summary courts and social relations in eighteenth-century England', *Past and Present*, 183 (2004), pp. 170-72. King examined: Becontree 1810-3; Chelmsford 1801-3; Colchester 1770-2 & 1799-1800; Lexden and Winstree 1788-93; Tendring 1794 and 1804.

¹⁷ King, 'The summary courts', pp. 134-5.

¹⁸ J. Davis, 'A poor man's system of justice: the London police courts in the second half of the nineteenth century', *Historical Journal*, 27 (1984), pp. 309-335.

Bedfordshire, Manchester and Cornwall.¹⁹ Emsley's book *Crime and Society in England, 1750-1900* interestingly considers changes as industrialisation took place, and acknowledges that crimes other than property offences were important.²⁰ These are themes very pertinent to the current work, as a focus is on the range of crimes that occurred in Montgomeryshire's industrial centres which grew up at the beginning of the nineteenth century.

David Phillips's book on crime in the Victorian midlands uses the formula of following a criminal case through from an account of the committing of the offence itself, through police investigation and trial. Throughout the narrative, explanations are given to give the context for each successive event.²¹ Barry Godfrey's more recent work on crime in Crewe uses the narratives of people's lives to provide detailed context to crimes in a town that owed its development to the Industrial Revolution, just like Newtown in Montgomeryshire.²²

Work such as E.P. Thompson's, while being 'of the people', nevertheless concentrated on men – a fact upon which several historians, such as Joan Scott, made important comment.²³ There was thus a space which began to be filled in the 1970s by feminist writers such as Sheila Rowbotham with her seminal *Hidden from History*. This defined women's history via class oppression and the capitalistic results of the Industrial Revolution, interestingly highlighting the different effects of

¹⁹ P. King, *Crime and Law in England, 1750-1850* (Cambridge, 2006).

²⁰ C. Emsley, *Crime and Society in England, 1750-1900* (1987, Harlow, 2005).

²¹ D. Phillips, *Crime and Authority in Victorian England: the Black Country, 1835-1860* (London, 1997), pp. 96-109; D. Taylor, *Crime, Policing and Punishment in England, 1750-1914* (Basingstoke, 1998).

²² B.S. Godfrey, D.J. Cox & S.D. Farrell, *Criminal Lives: Family Life, Employment and Offending* (Oxford, 2007); B.S. Godfrey, D.J. Cox & S.D. Farrell, *Serious Offenders: a Historical Study of Habitual Criminals* (Oxford, 2010); B.S. Godfrey and G. Dunstall, 'The growth of crime and crime control in developing towns: Timaru and Crewe, 1850-1920' in B.S. Godfrey and G. Dunstall (eds), *Crime and Empire, 1840-1940: Criminal Justice in Local and Global Context* (Cullompton, 2005), pp.135-44.

²³ J. Scott, *Gender and the Politics of History* (New York, 1988). See also J. Thomas, 'Women and capitalism, oppression or emancipation', *Comparative Studies in Society and History*, 30 (1988), pp. 534-49 and B. Taylor, *Eve and the New Jerusalem: Socialism and Feminism in the Nineteenth Century* (New York, 1983); A. Clark, *The Struggle for Breeches: Gender and the Making of the British Working Class* (Berkeley, 1995); S.O. Rose, *Limited Livelihoods: Gender and Class in Nineteenth-Century England* (Berkeley, 1992).

industrialisation on working- and middle-class women.²⁴ This was followed soon after by *Women, Work and Family* by Louise Tilly and Joan Scott which concentrated on the domestic and work-place lives of lower-class women.²⁵ In the early 1990s, Malcolm Feeley and Deborah Little investigated the declining appearance of women in the Old Bailey, and more recently Garthine Walker has argued that the general focus on men in historical writing has inadequately accounted for differences in crime that were fundamentally gender related.²⁶ The present work investigates the whole community, and makes comparisons between the experiences of men and women. It includes a chapter which specifically considers gender-related differences, particularly looking at how physicality affected the nature of the getaway part of the offence. As a socially upward definition of the subject, Leonore Davidoff and Catherine Hall published *Family Fortunes: Men and Women of the English Middle Class, 1740-1850* which is important because it was devoted to a section of society largely neglected by the new breed of historians studying the working-class population.²⁷ At this point we can consider the call from Andrew Charlesworth to give consideration to ‘history from below interacting with history from above’.²⁸ This call, as well as others for studies ‘from within’,²⁹ an ‘end to segregation of urban from rural’ and for expansion of ‘gender-shaped experiences of the working classes’,³⁰ lend themselves to the aforementioned aims of the present project, which constitutes a ‘history from all sides’.

²⁴ S. Rowbotham, *Hidden from History* (London, 1977).

²⁵ L. A. Tilly & J.W. Scott, *Women, Work and Family* (London, 1978).

²⁶ G. Walker, *Crime, Gender and Social Order* (Cambridge, 2003), p. 159. King makes the comment: ‘Historians working on major indictable crimes were, like most criminologists, slow to pick out gender as an important variable.’ King, *Crime and Law*, p. 196. See also comments in ‘Why Gender and Crime?’, M.L. Arnot and C. Usborne (eds), *Gender and Crime in Modern Europe* (1999, London, 2003), pp. 1-43.

²⁷ L. Davidoff & C. Hall, *Family Fortunes: Men and Women of the English Middle Class, 1740-1850* (Oxford, 2002).

²⁸ A. Charlesworth, ‘An agenda for historical studies of rural protest in Britain, 1750-1850’, *Rural History*, 11 (1991), pp. 235.

²⁹ P. Jones, Finding Captain Swing: protest, parish relations and the state of the parish mind in 1830’, *Southern History*, 22 (2010), pp. 429-598.

³⁰ K. Hunt, ‘Gender and labour history in the 1990s’, *Mitteilungsblatt des Instituts für Soziale Bewegungen*, 27 (2002), pp. 185-200.

The nineteenth-century restriction of the administration of law to men only, in the form of judges, magistrates, lawyers and police means that a study of crime and community must necessarily contain a sizeable proportion focused on this part of society.³¹ Peter King's important work, *Crime, Justice and Discretion in England, 1740-1820*,³² contains a chapter that examines the personages and roles of magistrates, and asks questions about their motivations. Barry Godfrey and Paul Lawrence's *Crime and Justice, 1750-1950* examines the development of both the police and courts system, using references to other published work to raise questions about the purposes of the new police.³³ The present thesis looks closely at the activities of the Montgomeryshire Constabulary and Bench of magistrates, identifying motivations and attitudes that help to answer such questions. David Phillips discusses the roles of these two arms of the legal system in a central region of England,³⁴ and Clive Emsley considers very wide-ranging detail on them in *Crime and Society in England, 1750-1900*.³⁵ Books devoted to the history of the police force include Caroline Steedman, *Policing the Victorian Community*,³⁶ Clive Emsley, *The Great British Bobby*,³⁷ and David Taylor, *The Police in the Nineteenth Century*.³⁸ These give important interpretations of the early days, showing how the force developed, how the men's roles and routines came about, and their impact on community life. As far as the Montgomeryshire Constabulary is concerned, there is a short publication entitled *A History of the Montgomeryshire Constabulary, 1840-1948*, which gives a succinct overview of the foundation and growth of the force, with a small amount of detail

³¹ Laws made by men, and the administration of those laws, are said to have constituted the focus of women's intense anger during the late nineteenth and early twentieth centuries. S. Kingsley Kent, *Sex and Suffrage, 1860-1914* (1987, London, 1990), p. 140.

³² See earlier footnote.

³³ B.S. Godfrey & P. Lawrence, *Crime and Justice, 1750-1950* (Cullompton, 2005), pp. 9-26; 49-66.

³⁴ D. Phillips, *Crime and Authority in Victorian England*, pp. 53-140.

³⁵ C. Emsley, *Crime and Society in England*, pp. 138-200.

³⁶ C. Steedman, *Policing the Victorian Community: The Formation of the English Provincial Police Forces, 1856-80* (London, 1984).

³⁷ C. Emsley, *The Great British Bobby* (London, 2009); see also C. Emsley, *Policing and its Context* (London, 1983).

³⁸ D. Taylor, *The New Police in the Nineteenth Century England* (Manchester, 1997). See also D. Taylor, *Policing the Victorian Town: The Development of the Police in Middlesbrough c. 1840-1914* (Basingstoke, 2002) and D. Taylor, *Crime, Policing and Punishment in England, 1750-1914* (Basingstoke, 1998).

about the men involved and their actions. There is no published book about the Montgomeryshire magistracy, but David Cox and Barry Godfrey's *Cinderellas & Packhorses: a History of the Shropshire Magistracy*,³⁹ mentions some men who played major roles in the judiciary of both Shropshire and neighbouring Montgomeryshire. The present work aims to fill the large gaps in knowledge of the Montgomeryshire police and Bench, and like the aforementioned authors, provides detail about the men's earlier lives, and experiences on the streets and in the courts. Although men administered justice, working-class women could use the law themselves, even taking men to court to resolve issues and demonstrating an impressive, perhaps surprising, knowledge of the law. This is described by Shani D'Cruze in her book *Crimes of Outrage: Sex, Violence, and Victorian Working Women* in which she uses courtroom proceedings as a basis for her analysis.⁴⁰ Courtroom interactions have also been used effectively in analyzing legal proceedings by Martin Wiener and Phil Handler,⁴¹ and similar analyses will be seen in the current work.

The selection of Montgomeryshire as the object of investigation was for several reasons. In David Jones's classic work *Crime in Nineteenth-century Wales*, the county receives scant attention. In the same author's essay on the experiences of the plebeian Welsh, 'Welsh and crime, 1801-1891', even less attention is paid to the county.⁴² The Welsh dimension of his work, *Crime, Protest, Community and Police in Nineteenth-century Britain*, is concentrated on industrialized Merthyr Tydfil in the south.⁴³ However, for a paper presented to *Llafur* – the Welsh People's History Society which studies history from below – Jones did use 300 cases from early 1860s

³⁹ D.J. Cox and B.S. Godfrey (eds), *Cinderellas & Packhorses: A History of the Shropshire Magistracy* (Trowbridge, 2005).

⁴⁰ S. D'Cruze, *Crimes of Outrage: Sex, Violence and Victorian Working Women* (London, 1998).

⁴¹ M. Wiener, 'Judges v. jurors: courtroom tensions in murder trials', *Law and History Review*, 17 (1999), pp. 467-506; M. Wiener, *Men of Blood: Violence, Manliness and Criminal Justice in Victorian England* (Cambridge, 2004); P. Handler, 'The law of felonious assault in England, 1803-61', *Journal of Legal History*, 28 (2007), pp. 183-206.

⁴² D.J.V. Jones, 'The Welsh and crime: 1801-1891', in C. Emsley and J. Walvin (eds), *Artisans, Peasants and Proletarians, 1760-1860* (Beckenham, 1983), pp.81-103.

⁴³ D.J.V. Jones, *Crime, Protest, Community and Police in Nineteenth-Century Britain* (Boston, 1982).

Montgomeryshire for an investigation. In this, he concentrated on rural offences, mainly arson, poaching and vagrancy, with a decided leaning towards men's experience of crime.⁴⁴

Melvin Humphreys devoted a chapter to the subject of crime in Montgomeryshire in *The Crisis of Community*, although his focus is on the eighteenth century,⁴⁵ and Nicholas Woodward considered the county in his studies of rural crime and infanticide during the early eighteenth to early nineteenth centuries.⁴⁶ Sharon Howard has completed notable work on crime and community in Denbighshire, the neighbouring county to the north, showing the value of such work on a Welsh county away from the well-studied south Wales area. Howard's work, however, is focused on the early modern period.⁴⁷ Richard Ireland's highly readable work looks mainly at western counties of Wales.⁴⁸ His work on Carmarthenshire juries is a useful extension to Langbein and King's earlier works on discretion, as the present project hopes to be.

David Jones investigated prostitution in his work on Merthyr Tydfil, which added to Russell Davies's brief Carmarthenshire studies on this topic,⁴⁹ but although he had

⁴⁴ D.J.V. Jones, 'Crime, Protest and Community in Nineteenth-century Wales', *Llafur*, 3 (1974), pp. 110-20.

⁴⁵ M. Humphreys, 'Harmony, crime and order', in *The Crisis of Community* (Cardiff, 1996), pp. 217-52.

⁴⁶ N. Woodward, 'Burglary in Wales, 1730-1830: evidence from Great Sessions', *Welsh History Review*, 24 (2008), pp. 60-91; N. Woodward, 'Horse stealing in Wales, 1730-1830', *Agricultural History Review*, 57 (2009), pp. 70-108; N. Woodward, 'Seasonality and sheep stealing in Wales, 1730-1830', *Agricultural History Review*, 56 (2008), pp. 23-47; N. Woodward, 'Infanticide in Wales, 1730-1830', *Welsh History Review*, 23 (2007), pp. 94-125.

⁴⁷ S. Howard, 'Crime, communities and authority in early modern Wales: Denbighshire, 1660-1730', unpublished Ph.D. (University of Wales, 2003); S. Howard, *Law and Disorder in Early Modern Wales: Crime and Authority in the Denbighshire Courts, c.1660-1730* (Cardiff, 2008).

⁴⁸ See, for example, R.W. Ireland, 'A second Ireland? Crime and popular culture in nineteenth-century Wales' in R. McMahon (ed.), *Crime, Law and Popular Culture in Europe, 1500-1900* (Cullompton, 2008), pp. 239-61.; R.W. Ireland, "'Perhaps my mother murdered me": Child Death and the Law in Victorian Carmarthenshire', in C. Brooks and M. Lobban (eds.), *Communities and Courts in Britain, 1150-1900* (Hambledon, 1997), pp. 229-43; R.W. Ireland, 'Putting oneself on whose county? Carmarthenshire juries in the mid-nineteenth century', T.G. Watkin (ed.), *Legal Wales: Its Past, Present and Future* (Cardiff, 2001), pp. 63-87; R.W. Ireland, 'An increasing mass of heathens in the bosom of a Christian land: the railway and crime in the nineteenth century', *Continuity and Change*, 12 (1997), pp. 55-78.

⁴⁹ R. Davies, *Secret Sins* (Cardiff, 1996), pp. 161-62.

clearly examined Montgomeryshire records very closely for his *Llafur* investigation, he did not include prostitution as one of the case studies.⁵⁰ Frances Finnegan and Judith Walkowitz have completed in-depth work on this subject, shedding valuable light on communities around Britain, although none of them was in Wales.⁵¹ Finnegan's work gleaned information from newspapers, court reports and records of refugees to reconstruct the lives of the women, whereas Walkowitz's focus was more on state regulation via Acts of Parliament and their implementation, health issues and attempts at reform. The work in the current thesis follows more the Finnegan model and makes an investigation of the women's experiences of the justice system.

The foregoing discussion shows that there is a space for a study of crime and the whole community in the later nineteenth century in mid Wales, and the current work is, in many ways, a mid-Victorian extension of the Humphreys book on Montgomeryshire, in that the whole community, including women, is studied without an overall focus on one particular social or gendered group. The important features of the county are that it had both English and Welsh characteristics from its long border, approaching 150 miles, with Shropshire and with four Welsh counties that themselves had particular characteristics. Montgomeryshire also had dual agricultural and industrial features from its rich farming heritage and revolutionary factory presence, as we will see in Chapter 2.⁵² This study will thus address Paul O'Leary's well-justified concern that Welsh labour history, and thus the history of ordinary people, has been concentrated on the heavily industrialized areas in south and north-west Wales.⁵³

The first two of the forthcoming chapters sets the scene for the investigation, describing the county and its particular characteristics. The geography of the area, language features and demography are discussed, along with an exploration of the

⁵⁰ See earlier footnote.

⁵¹ F. Finnegan, *Poverty and Prostitution* (Cambridge, 1979); J. Walkowitz, *Prostitution and Victorian Society* (Cambridge, 1980).

⁵² See comments in B. Godfrey and D.J. Cox, *Policing the Factory*, especially in Foreword and Chapter 1.

⁵³ P. O'Leary, 'Masculine histories: gender and the social history of modern Wales', *Welsh History Review*, 22 (2004), p. 259.

available employment opportunities and religiosity. The face of the justice system as seen in the courtroom is then considered by way of examining personalities in the local legal system, namely the magistrates and policemen. Their backgrounds are investigated, looking at life histories and identifying hierarchies within the different groups of men. Conclusions are made about possible motivations for joining the Bench and police force, and how far the identified hierarchies were represented in the landscape.

The central chapters provide a close-up study of the work of the courts and constabulary, looking first at how far the police force was an agent of the general public, and to what degree the men were accepted by the lower orders. Their methods of law enforcement and the response of the community to their actions are explored, and an early forensic investigation is considered. The work of the magistrates in Petty Sessions is examined, and sentencing patterns scrutinized. More detail is found about the motivations and methods, and in particular, the influence of the chief constable is assessed. The use of the courts by the general public is investigated.

Later chapters move away from the administrators of justice, and look into the contributions of court users: first, the roles and actions of decision-makers in the form of prosecuting individuals and the juries in the Quarter Sessions, then later the people who appeared in the witness box. There is a particular focus on theft offences as these formed the most prolific type of crime, and the gendered nature of this type of offending is scrutinized. First-hand evidence from depositions is used to shed light on motivations and experiences, and the part played by the landscape in facilitating offending is described. Gendered involvement is further discussed in a chapter that probes prostitution and its relation to public houses and alcohol. The life stories and experiences of the women involved are uncovered in a hitherto unstudied topic in Montgomeryshire history, and there is an assessment of police attitudes and involvement. The treatment of prostitutes by the legal system is a subject raised here, with questions about whether their status disadvantaged them. The final investigative chapter considers the highest court in the county, namely the Assizes. The differences resulting from outsiders' input into the system are explored, and an evaluation is made as to whether the system subjugated participants, particularly women defendants. Status and reputation are reviewed, and an important turning point in court protocol is

identified and analysed in terms of loss of reputation. The thesis concludes with Chapter 10 which brings together the findings of the research, discusses the results and makes suggestions for further research.

Chronology and Methodology

The mid-Victorian age was chosen for study for a number of reasons. First, initial investigations began at this point because the local newspaper, *The Newtown and Welshpool Express*, which was the starting point for gathering material, is extant from 1869. Moreover, the new police had been present for some 30 years in the county and had become a recognised part of the justice scene. A new chief constable was appointed in 1868, and thus his methods can be studied from almost the very beginning of his incumbency. There were implications for the face of the administration of justice at this time, as increasing numbers of newly-made rich individuals bought country properties, became new gentry and joined the Bench of magistrates.⁵⁴ Women were not enfranchised and yet by 1894 an established women's movement existed within some sections of the community, and this pressure group was emerging during the period studied.⁵⁵ The Montgomeryshire flannel industry, which had become noted throughout Great Britain, had been suffering from a long decline which started from about the same time as the police force began and had implications for offending and in the financial penalties imposed. Despite the decline, Montgomeryshire was about to see a phenomenon in the world of retail which was to cause a second boom in the county. This was mail-order purchasing, launched by local entrepreneur Pryce Pryce-Jones in the 1870s,⁵⁶ and his influence as a resident of the county's most populous town will be considered. The methodological focus on the decade 1869-78 follows the methods of Langbein and King described earlier whereby sharp attention was paid to relatively short time spans, and of Jennifer Davis who restricted her original illustrative points mainly to the 1860s and 70s. Such

⁵⁴ See D.J.V. Jones, 'Greater and lesser men' in D.J.V. Jones, *Rebecca's Children* (Oxford, 1990).

⁵⁵ R. Jones, 'Maria Humphreys-Owen: Montgomeryshire's champion of women's rights', *Mont. Colls*, 99 (2011), pp. 109-21. See also *M.E.*, 13/2/1894 for a list of some of the members of the women's group including Mrs Humphreys-Owen.

⁵⁶ 'Pryce-Jones: pioneer of the mail-order industry' viewed at http://www.bbc.co.uk/legacies/work/wales/w_mid/article_1.shtml (viewed 14/4/2012).

concentration allows evidence to be studied in greater detail than might otherwise be the case.⁵⁷

The Newtown and Welshpool Express reported many court cases in detail, with names, places and minutiae given. Reports were supplied from summary courts around the county, highlighting cases that reflected the differing areas of Montgomeryshire. Possible limitations are that some details may have been missed, and all sessions in all divisions may not have been covered. Occasional detail may have been reported wrongly, especially if the reporter was reading back from shorthand notes, and as records of summary and Assize courts no longer exist, the evidence of the newspapers cannot be checked.⁵⁸ Most of the Quarter Sessions records are held at the county record office but there are gaps. Caution is always in mind as to its veracity, and one has to bear in mind that reporters and editors may have been biased, possibly pursuing their own agendas.⁵⁹ Having said that, however, Timothy Shakesheff rightly makes the point that some convictions went unrecorded except for in a newspaper.⁶⁰ Such reporting was public and fairly immediate, which was an obvious consideration disposing towards accuracy and correct reportage, with the reporter's job at stake.

⁵⁷ Barbara Weinberger also used mainly the 1860s and 70s in her essay 'The police and the public in mid-nineteenth-century Warwickshire', in V. Bailey (ed.), *Policing and Punishment in Nineteenth-Century Britain* (London, 1981), pp. 65-93

⁵⁸ For an indication of the complexity of reading back shorthand, see, for example, I.C. Hill and M. Bowers, *Teeline* (London, 1983).

⁵⁹ Observations about this are in S. Devereaux, 'From Sessions to newspaper? Criminal trial reporting, the nature of crime and the London press, 1770-1800', *The London Journal*, 32 (2007), p. 2; A.B. Rodrick, 'Only a newspaper metaphor: crime reports, class conflict and social criticism in two Victorian newspapers', *Victorian Periodicals Review*, 29 (1996), particularly pp. 1-4. See also P. King, 'Newspaper reporting and attitudes to crime and justice in late eighteenth- and early-nineteenth-century London', *Continuity and Change*, 22 (2007), pp. 73-112; P. King, 'Making crime news: newspapers, violent crime and the selective reporting of Old Bailey trials in the late eighteenth century', *Crime, History and Societies*, 13 (2009), pp. 91-116; J. Sharpe, 'Reporting crime in the north of England eighteenth-century newspaper: a preliminary investigation', *Crime, Histoire et Société*, 16 (2012), pp. 25-45. C. Kent, 'The editor and the law', in J.H. Wiener (ed.), *Innovators and Preachers: The Role of the Editor in Victorian England* (Westport, 1985), pp. 99-119; L. Brown, *Victorian News and Newspapers* (Oxford, 1985). See also D. J. Robinson, 'Crime, police and the provincial press: a study of Victorian Cardiff', *Welsh History Review*, 25 (2011), pp. 551-75.

⁶⁰ T. Shakesheff, *Rural Conflict, Crime and Protest: Herefordshire, 1800-1860* (Woodbridge, 2003), p. 146.

A large proportion of the present work looks at the role and actions of the constabulary, and for this the newspaper is the primary source of information. However, there are some other sources that are useful and important. At the National Library of Wales, there exists a Montgomeryshire policeman's notebook from the period under study, against which detail from the newspaper can be checked.⁶¹ Powys County Archives holds some of the chief constable's reports to Quarter Sessions, and several other relevant documents within the Quarter Sessions bundles. These include depositions, financial records and the clerk's records of police activity.⁶² Visits were made to archive offices around the country in order to collect evidence, including the National Archives at Kew for records of prisoners. Denbighshire Record Office and Shropshire Archives were searched for records of neighbouring Benches and courts.

People are the most important factor in this work, and there was a need to investigate background circumstances that may have been relevant to motivations and events. This is very clearly illustrated in, for example, Barry Godfrey's work on Crewe, and Brian Short's fascinating work on so-called 'lifepaths'. Short's investigations led him to observe that there was a constant 'ebb and flow' of younger men across rural areas in Victorian Sussex, and this is a detail that will be examined in due course in the present work.⁶³ Working through microfilm in widely-dispersed libraries and archives used to be time-consuming and expensive but the internet has revolutionised this procedure. The Ancestry web site, in particular, was of enormous importance in the present work by allowing census sheets to be readily examined. Information on personal circumstances can be gathered from the national censuses, 1841-1911, though again caution must be exercised as data may be incorrect or missing. For example, young offender Walter Ruscoe's place of birth was Guilsfield, Montgomeryshire, but was given as Glamorganshire in 1891 and Staffordshire in 1901. Names may be incorrect or spelled wrongly in the censuses which makes using the search facility problematic, and often names or places have been transcribed

⁶¹ Journal of P.C. Edward Jones, Constable of Llanfyllin, N.L.W. MS 6227D.

⁶² P.C.A., M/Q/SR; M/Q/AC7; M/Q/SO/11.

⁶³ See the analysis of families in B. Godfrey, *Criminal Lives*, pp. 109-141 and details of Michael Maynard's life in B. Short, 'Environmental Politics', pp. 484-5. See also P. Tilley, 'Creating life histories and family trees from nineteenth-century census records, parish registers and other sources', *Local Population Studies*, 68 (2002), pp. 63-81.

wrongly. For example, Kerry in Montgomeryshire was often transcribed as Kerry, Ireland. Harriet Chandler, who lived in Llanidloes in 1911, has been transcribed as Farriers Chandler. Women who changed their surnames upon marriage commonly disappeared from view, and in a region where names such as John Jones or Mary Evans were very common, it was often only men with distinctive names who could be traced.

Other electronic resources were of great usefulness to this research, particularly database and spreadsheet software. The data gathered from newspapers and court records were entered into a database from which sub-tables and so-called ‘queries’ could be generated. The usefulness of a database is that the entries can be sorted and interrogated with ease, and exported to spreadsheets where numerical calculations can be performed. The embedding of formulae within the spreadsheets allows much analysis, as does the generation of charts and graphs. Figures 1.1 and 1.2 show a section of the Assizes dataset, and the spreadsheet that was created from this, including the results of tabulated data and a generated graph. Figure 1.3 shows the embedded formulae.

ss 69-78 : Table							
Court	Date reported	Date of offence	Crime	Police officers involv	Where	Defendant 1	Occ
SumA77	10-Jul-77		Theft of money		Welshpool	Gardner Mary	
SpA69	23-Mar-1869	21-Dec-1868	Unlawful wounding			Nolan William Napoleon (42)	Ger
SpA69	23-Mar-1869	19-Mar-1868	Unlawfull shooting (2 charges)	PC Edward Davies	Llanfair Caereinion	Williams Richard	Car
SA74	21-Jul-74		Unnatural offence			Mapp Thomas (17)	Car
SUMA 77	10-Jul-77	04-May-77	Various items		Montgomery	Davies John (40)	
SA69	27-Jul-1869	02-Jun-1869	Wounding sheep	PC Francis Bowen	Hirnant	Jones David	Fan

Figure 1.1: Section from Assize database.

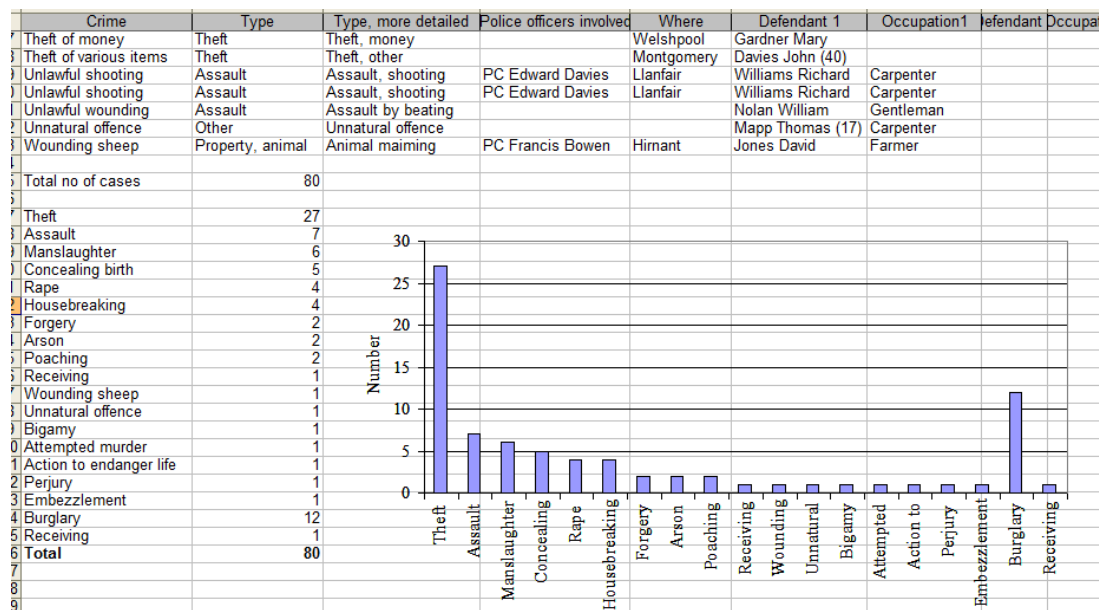


Figure 1.2: Lower section of the spreadsheet showing tabulated data and generated graph.

G111			
	E	F	G
1	Crime	Type	Type, more detailed
77	Theft of money	Theft	Theft, money
78	Theft of various items	Theft	Theft, other
79	Unlawful shooting	Assault	Assault, shooting
80	Unlawful shooting	Assault	Assault, shooting
81	Unlawful wounding	Assault	Assault by beating
82	Unnatural offence	Other	Unnatural offence
83	Wounding sheep	Property, animal	Animal maiming
84			
85	Total no of cases	=COUNTA(G2:G83)	
86			
87	Theft	=COUNTIF(G2:G83,"*Theft*")	
88	Assault	=COUNTIF(G2:G83,"*assault*")	
89	Manslaughter	=COUNTIF(G2:G83,"*man*")	
90	Concealing birth	=COUNTIF(G2:G83,"*conc*")	
91	Rape	=COUNTIF(G2:G83,"*rape*")	
92	Housebreaking	=COUNTIF(G2:G83,"*bre*")	
93	Forgery	=COUNTIF(G2:G73,"*forg*")	
94	Arson	=COUNTIF(G2:G83,"*ars*")	
95	Poaching	=COUNTIF(G2:G83,"*poa*")	
96	Receiving	=COUNTIF(G2:G83,"*rec*")	
97	Wounding sheep	=COUNTIF(G2:G73,"*kill*")	
98	Unnatural offence	=COUNTIF(G2:G83,"*unn*")	
99	Bigamy	=COUNTIF(G2:G83,"*big*")	
100	Attempted murder	=COUNTIF(G2:G73,"*murd*")	
101	Action to endanger life	=COUNTIF(G2:G73,"*acti*")	
102	Perjury	=COUNTIF(G2:G73,"*per*")	
103	Embezzlement	=COUNTIF(G2:G73,"*emb*")	
104	Burglary	=COUNTIF(G2:G78,"*burg*")	
105	Receiving	=COUNTIF(G2:G83,"*rece*")	
106	Total	=SUM(F87:F105)	
107			
108			
109			
110			

Figure 1.3: Embedded formulae used for counting data and calculating the total.⁶⁴

⁶⁴ Note that the top line of the sheet has been frozen, allowing the lowest part of the sheet to be brought into view, hiding lines 2 to 77. The usefulness of this is that the end of the sheet can be viewed without losing the column headings. The technical term for this is 'freezing the frame'.

Finally, we need to remember that throughout this thesis, comment and analysis is made on actions taken during a time well over a hundred years ago. Sensibilities have changed. There have been considerable improvements in living standards; religious beliefs have significantly altered and often diminished; class attitudes have become very different; we no longer share many ideas about crime and authority which prevailed in the Victorian period, and sensibilities about gender have altered drastically. Our own period is in these, and many other regards, very far removed from the period studied in this thesis. We need therefore to be aware of the values and priorities of the mid Victorian era, and caution must always be exercised when bringing twenty-first-century sensibilities to bear analytically on attitudes and behaviour from an earlier period. However, Godfrey and his co-workers drew upon some modern surveys of court practices in their work on sentencing patterns and, similarly, in this thesis, comparisons and contrasts with modern courts will be made at times.⁶⁵ As with much other historical research, one worthwhile aim, among many others, is to place modern concerns and practices into historical perspective.

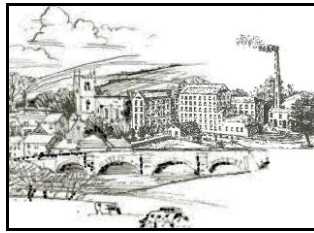
Chapter 2 now follows, providing background detail about the county which illuminates the setting of subsequent investigations. It will be shown that the eastern and western sides of Montgomeryshire had differing characteristics, and that the industrialized nature of the central Severn valley allowed for different criminal opportunities to the agricultural, and poorer, eastern side. The geographical, linguistic and cultural features of the county will be explored.

⁶⁵ B.S. Godfrey, S. Farrell & S. Karstedt, 'Explaining gendered sentencing patterns', *British Journal of Criminology*, 45 (2005), pp. 696-720. Note also the general editor's comment in *Criminal Lives*: 'Highly original...applying modern concepts... and 'visiting them upon the late nineteenth and early twentieth centuries'. Godfrey, *Criminal Lives*, p. vii.

Chapter 2

Montgomeryshire

People, Places and Occupations



The focus of this study is the county of Montgomeryshire. The aim of the present chapter is to set the scene for forthcoming investigations, describing the main features of this part of Wales, namely the land, industries and people. There will be a description of the topography and changes that occurred in the landscape as industrialisation took place in hitherto market towns. Particular demographic features including occupational status and sizes of labour forces will be noted, and conclusions made about the justice system seen by people in court.

The county

Montgomeryshire is now part of the modern county of Powys but before local government changes in 1974 it was a county in its own right. It was the largest county in north and mid Wales, and the second largest in Wales as a whole (Figure 2.1).



Figure 2.1: Montgomeryshire within Wales

A gateway into the county is in the north-eastern part, where flat land pushes into the hills, and the low-lying land that accompanies the rivers Banwy and Vyrnwy provides routes westwards. Another way into the county was also from the north-east, but this time following the valley of the River Severn in a south-westerly direction past Welshpool, Newtown and Llanidloes (Figure 2.2).



Figure 2.2: The valleys of the Severn, Banwy and Vyrnwy.

Occupational nature of the county

During the nineteenth century the main industry in Montgomeryshire was agriculture, and approximately one-tenth of the agricultural produce of Wales came from the county. In the 1871 census, 11,004 persons aged over 20 years were of the agricultural class, which constituted a little over a quarter of that age group.¹ In modern times, much of the western side of the county has been classified by the government as 'severely disadvantaged' being wetter and less fertile than the east.²

¹ *Census of England and Wales, 1871*, Vol. 3, Table 17, p. 596 'Occupations of males and females aged 20 years and upwards', p. 535. The total population of that age group is given as 41,904.

² The Welsh Office, quoted in B. Poole, 'Agriculture' in D. Jenkins (ed.), *The Historical Atlas of Montgomeryshire* (Welshpool, 1999), pp. 103.

The same situation existed during earlier periods, as John Marius Wilson wrote in 1874:

The surface, in most of the east, to the mean breadth of about 5 miles, is a mixture of rich vale and pleasant hill, luxuriant, warm and low; but the surface, all elsewhere, is prevailingly mountainous, moorish, bleak and wild.³

He did concede, however, that many western hills were wooded and surrounded by vales that afforded unexpected fertility. The main arable crops were oats, wheat and barley, with the first of these being the most produced, although by 1870 land under the plough was decreasing as stock breeding increased. New breeds of sheep were trialled, and dairy shorthorn and Hereford cattle became popular.⁴ Wilson wrote that about one-eighth of the land was arable, about one-third pasture and about half was common or waste, and he observed a further disparity between the east and west:

Yet the farmhouses, in other parts than the east, are aggregately far from good – many of them timbered, and the cottages are very poor. The native cattle, a small, brindled short-legged breed, deep in the carcase, are kept on the inferior farms. The Devonshire and Herefordshire breeds abound on the best farms.⁵

Two examples of the well-off farmers in the east were widow Susan Powell of Buttington Hall, near Welshpool, and her neighbour William Beckerton. Both these farms were of over 300 acres and gave employment to a total of 15 live-in workers. The survival of this live-in form of labour was a feature of the county, a more traditional form of labour tht had been lost in many English regions by this time.⁶

Heavy industry

Along with agriculture, manufacturing was present in the county, the chief business being the production of woollen items which had been ongoing since the middle

³ J. M. Wilson, *The Imperial Gazetteer of England and Wales*, 5 (Edinburgh, Glasgow and London, 1874), p. 368.

⁴ P. Phillips, *A View of Old Montgomeryshire* (1977, Swansea, 1978), pp. 125-37; Poole, 'Agriculture', pp. 103-7.

⁵ Wilson, *The Imperial Gazetteer*, p. 369.

⁶ K.D.M. Snell, *Annals of the Labouring Poor* (1985, Cambridge, 1995), pp. 15-103.

ages.⁷ Originally, the trade was a cottage industry, with all the preparatory processes carried out by hand and only the final ‘fulling’, or washing, of the cloth being done at a fulling mill (*pandy* in Welsh).⁸ It is said that in Montgomeryshire ‘nearly every farm had its weaving contingent and rents were half made from the making of flannel’.⁹ That the factory system was not yet established is indicated by its absence from Daniel Defoe’s account of his traverses through the county during the 1720s:

The River Severn is the only beauty of this county, which rising I say, out of the Plymlymon [sic] Mountains, receives instantly so many other rivers into its bosom, that it becomes navigable before it gets out of the county, namely at Welch Pool,¹⁰ on the edge of Shropshire. This is a good fashionable place, and has many English dwelling in it, and some very good families, but we saw nothing further worth remarking. The vales and meadows upon the banks of the Severn are the best of this county, I had almost said, the only good part of it.¹¹

Fifty years later, Thomas Pennant observed the effects of the flannel industry while on his tour of Wales:

Llanidloes, a small town, with a great market for yarn, which is manufactured here into fine flannels, and sent weekly, by wagonloads to Welshpool...Welshpool, a good town, is seated in the bottom, not far from the castle [Powis Castle, seat of the Earl of Powis]. Great quantities of flannel, brought from the upper country, are sent from hence to Shrewsbury.¹²

The reference to Shrewsbury is very telling. The town had a monopoly on buying and selling Welsh cloth that began in Tudor times by an Act of 1565,¹³ and Donald Moore explains that by the eighteenth century Montgomeryshire producers were

⁷ For a fascinating account of the history of the woollen industry see P. Hudson, ‘The limits of wool’, *Cardiff Historical Papers* (2007), pp. 1-40.

⁸ D. Moore, *Wales in the Eighteenth Century* (Swansea, 1976), pp. 92-3.

⁹ A.H. Dodd, *The Industrial Revolution in North Wales* (Cardiff, 1951), p. 14.

¹⁰ ‘Welshpool’ was commonly spelled ‘Welch Pool’ or ‘Welchpool’. ‘Welch’ was originally added to distinguish the town from Poole in Dorset. J. Davies, N. Jenkins, M. Baines, P.I. Lynch, *The Welsh Academy Encyclopedia of Wales* (Cardiff, 2008), p. 944.

¹¹ D. Defoe, *A Tour Thro’ the Whole Island of Great Britain, Divided into Circuits or Journeys* (Letter 6, Part 3: Worcester, Hereford and Wales), viewed at <http://www.visionofbritain.org.uk> (5/6/2013).

¹² T. Pennant, *A Tour in Wales* (1778, Caernarvon, 1883), pp. 184-6.

¹³ Dodd, *Industrial Revolution*, p. 12.

totally dependant on the Shropshire drapers – a reflection of the poverty of the mid Wales countryside, where the quick sale of cloth for ready cash meant the difference between existence and starvation. As well as this, the drapers helped weavers to buy raw materials, in some cases buying yarn for them and paying only for the weaving. This all changed at the end of the eighteenth century as local drapers emerged and eclipsed the Shrewsbury traders. When the Rev. J. Evans travelled in the area at the end of the eighteenth century, he observed of Newtown:

It contains several streets and is in a flourishing condition. An extensive manufactory of flannel is carried on in the town, and in the parts adjacent. This article is got up in a masterly manner and employs the numerous poor of the town and neighbourhood... All the flannels here are the effect of manual labour: machinery has not found its way into north Wales.¹⁴

However, mechanisation did arrive, and investors in new machinery became powerful manufacturers.¹⁵ In 1818 John Aitkin noted: ‘Newton [sic] on the Severn, is the centre of a considerable woollen manufacture, especially of flannels of all qualities’.¹⁶

In 1871, about 22% of the population aged over 20 years was involved in this industry, only a few percentage points less than agriculture.¹⁷ The manufacturing heartland was along the Severn at the towns of Llanidloes, Newtown and Welshpool, facilitated by the accessibility of the valley. Indeed, both the county’s only canal, and the railway line to Aberystwyth, were constructed along this route.¹⁸ Of the three

¹⁴ J. Evans, *Letters Written during a tour of North Wales in the Year 1798, and at Other Times* (London, 1804), pp. 31-3.

¹⁵ D. Moore, *Wales in the Eighteenth Century*, pp. 94-5.

¹⁶ J. Aitkin, *England Described: Being a Concise Delineation of Every County in England and Wales* (London, 1818), p.469. Rev. Evans (note 13) describes how until the end of the eighteenth century, all grades of wool had been used together in making flannel of one quality, but now sorting was carried out to produce flannels of a range of qualities. This allowed price differentials which led to the financial success of the area. He also mentions exports to America and the West Indies, and explains how the method of bleaching was gentler than that used in Yorkshire, leading to a softer flannel.

¹⁷ *Census of England and Wales, 1871*, Vol. 3, Table 17, p. 596, ‘Occupations of males and females aged 20 years and upwards, p. 535.

¹⁸ J.E. Roberts and R. Owen, *The Story of Montgomeryshire* (Cardiff, 1916), p.5; E.R. Morris, ‘Woollen Industry’ in Jenkins, *Historical Atlas*, pp.98-99; W. Scott Owen, ‘A parochial history of Tregynon’, *Mont. Colls*, 30 (1898), pp. 14-15.

centres of manufacture, Newtown was the greatest, and was known as ‘the Leeds of Wales’ owing to the success of its factories.¹⁹ In 1833, Robert Parry wrote a ballad extolling its success and the prosperity it brought:

Oh what a blissful place! By Severn’s banks so fair,
Happy thine inhabitants, and wholesome is thine air.
Nine years long since last I’ve seen thee fled,
Ah! When departing my heart in grief has bled!
Thy lasses fair, and thy young men as kind,
Thy flannel fine and generous every mind,
But now, ‘tis now I wonder most,
I see thy improvements, well can thy townsmen boast;
To London great, in short by the canal,
Thy flannel goes, as quick as one can tell,
And thence from there the flannel’s quickly hurled
To every part of Britain and the world.
Thy gaslight’s bright, thy new built houses high,
Thy factories lofts seem smiling on the sky.²⁰

Although there had been a downturn in the industry’s prosperity after the 1830s, it was still a major employer in the town at the beginning of the 1870s.²¹ Investigation of the 1871 census show 300 woollen-cloth producers and 152 flannel manufacturers, and flannel workers living all around the town.²² Figure 2.3 shows locations of the producers and manufacturers.²³

¹⁹ Phillips, *A View*, p. 131.

²⁰ A.S. Davies, *The Ballads of Montgomeryshire: Life in the Eighteenth Century* (Welshpool, 1938), pp. 35-6. The ballad continues for a further 16 lines.

²¹ The rise and fall of the flannel industry in mid Wales is well document, see for example J. G. Jenkins, ‘The woollen industry in Montgomeryshire’, *Mont. Colls*, 58 (1963-64), pp. 50-69.; J. M. Pearson, ‘The decayed and decaying industries of Montgomeryshire’, *Mont. Colls*, 37 (1915), pp. 15-30. See also an excellent discussion in an editorial ‘The population in Newtown, 1871’, *N.W.E.*, 23/4/1871. For interesting comparative studies of the changing fortunes of the weaving industry see E. Jones, ‘Missing out on an industrial revolution’, *World Economics*, 9 (2008), pp. 104-8 and J.H. Clapham, ‘The transference of the worsted industry from Norfolk to the West Riding’, *Economic Journal*, 20 (1910), pp. 195-210.

²² National Census, 1871.

²³ Slater, *Directory of North Wales*, (1868).

Errand boy	2
General servant	2
Hawker	2
Pedlar	2
Postal Worker	2
Retired	2
Tailor	2
Chimney Sweep	1
Clerk	1
Flannel manufacturer	1
Governess	1
Retail	1
Sawyer	1
Unemployed	1
Printer	1
Glazier	1
Milliner	1
Total	117

Table 2.1: Occupations of residents of the Park Street yards (from 1871 census)

Across the town in a northerly direction from these yards was Russell Square – it too was a small enclosed area with 34 residents stating an occupation. The percentage of flannel and wool workers here was 88%. West of Russell Square, on the far side of the main shopping street was Kinsey Yard. Here the percentage of flannel and wool workers was 50%. Most of these areas have been demolished. Old photographs, maps and the buildings that remain show that they were accommodation that expanded during Industrial Revolution. Some contemporaries considered them to be a cause of crime and vice, with close-packed, back-to-back, small terraced houses.²⁴ The people of the Park Street yards had access to three wells and two pumps, and those living in Russell Square shared one well. Although the location of Kinsey Yard is not on any existing map, an idea about its whereabouts can be deduced from the census and it appears that its residents had access to one pump. To the north of the town, across the river, lay Llanllwchaiarn and the industrial quarter known as Penygloddfa. Three

²⁴ Fiona Rule in her book *The Worst Street in London* (Horsham, 2008) and Sarah Wise in *The Blackest Streets* (London, 2009) both discuss the decline of the Huguenot weaving industry, immigration and poverty, worsening living conditions and associated crime. See also comments about ‘non-gentrified’ areas being associated (perhaps mistakenly) with crime in Godfrey, *Criminal lives*, pp. 50-1.

yards were investigated here and it was found that 71% of residents worked in the flannel or wool industries.

The flannel industry for which Newtown was famous also existed in Welshpool. A visitor to the town wrote in 1832 that it was:

A large and populous town and the appearances of opulence are very predominant throughout the place perhaps owing to the trade in Welsh flannel which is carried on here to a very great extent.²⁵

During the first half of the nineteenth century housing for the workers grew up in parts of the town formerly occupied by gardens. The prosperity of the industry did not last and Table 2.2 shows the change in numbers of manufacturers and merchants.²⁶ The demise of the industry in Welshpool has been attributed to strong competition by mills in Newtown and Llanidloes, although by the 1840s the industry was also failing there.²⁷ Robson's *Directory of North Wales* (1840) gives 'the centrality of Newtown' as the reason for its superseding Welshpool.²⁸

	1829	1850	1868
Flannel manufacturer	9	3	0
Flannel merchant	2	2	0

Table 2.2: Number of flannel manufacturers and merchants in Welshpool

Severn Street lies to the south-west of the town. During the prosperous years of the flannel industry, a mill was situated on the northern side of the road, and the adjacent Red Lion Passage was occupied mainly by mill workers. In 1851 there were 76 persons living in the passage and of the 37 people in employment, 27 had mill occupations. Table 2.3 shows these and other occupations in the passage.

²⁵ I. Trant, *The Changing Face of Welshpool* (Welshpool, 1986), p. 5.

²⁶ Pigot & Co., *Directory of North Wales* (1829); Slater, *Directory of North Wales* (1850 and 1868).

²⁷ 'A Brief History of Welshpool', <http://www.cpat.org.uk/ycom/wpool/wplhis.htm> (viewed 15/05/2010).

²⁸ Robson, *Directory of North Wales* (1840).

Occupation	Number
Flannel weaver	21
Spinner of wool	5
Wool picker	1
Bread baker	1
Dressmaker	2
Agricultural labourer	2
Stay maker	2
Servant	1
Labourer at a brewery	1
Housekeeper	1

Table 2.3: Occupations of residents of Red Lion Passage in 1851

The mill brought in workers from outside the area: out of all 37 workers, only eight were Welshpool born and three of these eight were Welshpool-born offspring of incomers. Eight workers had been born outside the county. Looking at the census for 1871, the effects of the defunct flannel industry are clear as the total population of this passage had fallen from 76 to 59 and the flannel workers had mainly gone. The occupations were as in Table 2.4:

Occupation	Number
Tailor/ess	4
Servant (general or domestic)	2
Labourer	4
Woollen spinner	1
Dressmaker	1
Shoemaker	2
Lime burner	1
Housekeeper	1
Nurse	1
Carter	1
Post Office sorter	1

Table 2.4: Occupations of residents of Red Lion Passage in 1871.

What happened to the former occupants of the passage? It has been possible to trace some of the 1851 residents through the censuses and other records. Spinner John Hodgekiss moved to nearby Berriew Street and lost his wife. By 1871 he was remarried to a Liverpool woman and working as a gardener. Abraham Thomas, a weaver originating from Radnorshire, moved with his family to work in the industry in Newtown. His eldest son continued living with the family but did not follow in his

father's footsteps but became a carpenter. Another Radnorshire-born weaver was John Hammond. By 1861 he, his wife and eldest son were working as hand loom weavers in the Penygloddfa part of Newtown. Thomas Swancott gave up weaving, moved his family to Staffordshire and became a labourer. Evan Andrews, also a weaver, moved to Liverpool where by 1861 he was aged 63 and no longer working. Weaver Isaac Astley appeared in court in 1854, was convicted of larceny and received six months imprisonment. Neither he nor his wife appear in any subsequent census. In 1851, 12 year old Mary Ann Gough had been a servant to her spinner aunt in Red Lion passage, possibly looking after her baby cousin. Mary Ann had been born into a weaving family living on the other side of town and had at least seven siblings. By 1861, her mother Elizabeth had remarried and moved with some of her children, including Mary Ann, to Ladywell Street in Newtown. She was now a currier's wife with the surname Hetherington. Her new husband was not present on the night of the census, but living with the family was Mary Ann's cousin from Red Lion Passage, now aged 11 years. Mary Ann was aged 22 years but no occupation was given for her.

A picture thus emerges of fluctuating employment, an unstable resident population and, possibly, significantly high levels of unemployment.²⁹ An indication of the work opportunities available across the county is provided by local trade directories. Worrall's *Directory of North Wales* (1874) shows that the flannel industry was gone from Welshpool but still existed in Machynlleth on the western edge of Montgomeryshire.³⁰ Figure 2.4 shows the number of different businesses in the six main towns in the county. As expected, the two most populous towns had the greatest business diversity. However, business people probably had to pay for entries in the directory, so the directories possibly do not give an accurate account of contemporary commercial enterprise. These figures may be better regarded as an indicator of the numbers present.

²⁹ See 'Earlier studies on economic crisis and crime' in Council of Europe, *Economic Crisis and Crime* (Strasbourg, 1985), pp. 9-11.

³⁰ Worrall, *Directory of North Wales* (1874).

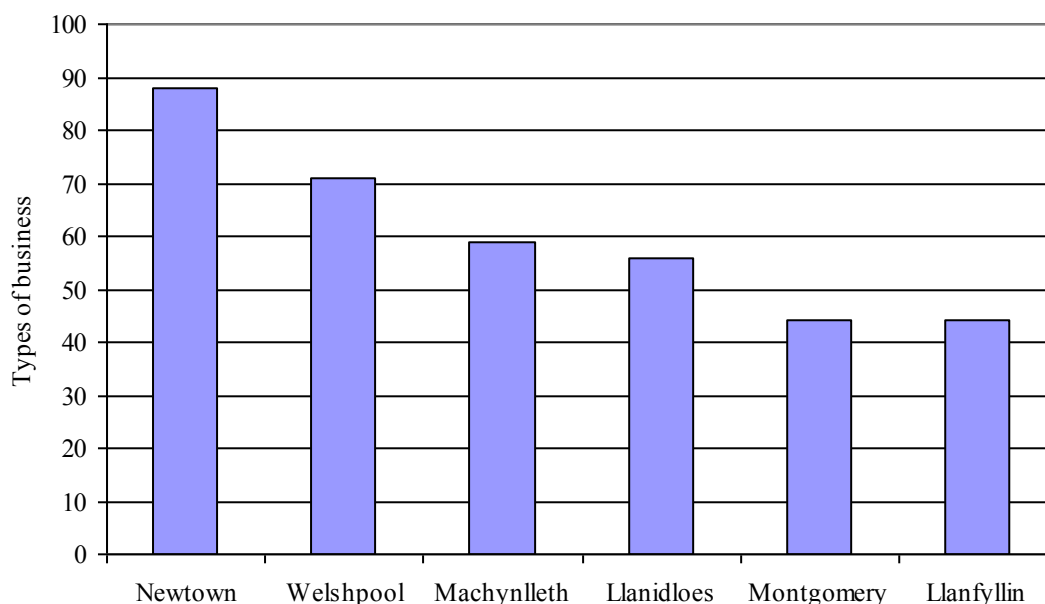


Figure 2.4: Numbers of different types of business in the six main towns in Montgomeryshire (Worrall's *Directory*, 1874)

Signs of deprivation

An element of squalor existed in the working-class areas of industrialized Newtown. Correspondence in the *Newtown and Welshpool Express* showed this, for example in a letter published on 23 February 1869:

The bulk of the dwellings upon Penyloddfa are not drained at all ... the sewer in Commercial Street intercepts rather than assists the natural drainage, it acts as a receptacle for a certain amount of decaying animal and vegetable matter as well as human excreta which cannot and does not run off during the greater portion of the year... emptying as it does beneath the windows of dwelling houses, grossly offensive to the senses of vision and smell of the whole town, is a disgrace to the civilisation of the times.³¹

Closer to the centre of town, near Kinsey Yard, there were two more sources of extreme insanitation which were discussed by Newtown Local Board:

There is a nuisance on the way leading to the Wesleyan chapel, on the corner of Wesley Street. There is an ash pit, indeed, I may say a

³¹ *N.W.E.*, 23/2/69.

cesspool, of stagnant filth, continually lodged there. The parties empty slops, chamberware, ashes and all other refuse, and this on the road leading to a public place of worship, and it is continually complained of. There is another nuisance question which has occupied my attention for the last few days. It is in respect to the emptying of privies into the public drains in different parts of the town. I am of the opinion that the drains were never meant for such a purpose. We have Mr Davies pointing out to us the terrible state the drains are in It is worthy of consideration of the Board to say whether they are not disposed to issue an order to prevent the issue of such a quantity of night soil from their petties into the drains where there is not a sufficient supply of water to carry it away.... It will be some time before the evil which exists will be removed. I believe in some parts of town the drains are nearly choked up.³²

The Park Street area began to be developed early in the nineteenth century and the accommodation was described as ‘little more than hovels’. The properties were often tiny, back-to-back, two-roomed houses (one up, one down), sometimes with weaving rooms above.³³ A photograph of a row of such houses is shown in Figure 2.5.³⁴ This is Picton’s Row, off Park Street, which no longer exists but measurements and calculations made from the 1902 1 inch Ordnance Survey map show that the rooms in the houses were about 10 feet square, as in some parts of east-end London. Lying parallel to Park Street and connected to it by Picton’s Row, was Ladywell Street. In 1874, the town’s medical officer sent this report to the local board:

Since my last report, eight cases of scarlet fever have to my knowledge occurred within the district – three in Ladywell Street, three in Albion Yard [off Park Street], and two in the High Street. Of these, two have proved fatal. When I visited the houses in Ladywell Street and Albion Yard I found that in two instances the inmates were sleeping in the room with the dead body waiting burial. In one case a woman dying of pulmonary consumption and a boy ill with scarlet fever were lying near the corpse.³⁵

³² *N.W.E.*, 9/3/1869.

³³ M. Richards (ed.) *A Study of Newtown in 1881*, Part 1 (Newtown, 1987), p. 4.

³⁴ I am grateful to Newtown Local History Group for permission to reproduce this photograph.

³⁵ *N.W.E.*, 9/6/1874. For analysis and comment on sanitary inspections see C. Hamlin, ‘Sanitary policing and the local state, 1873-4: a statistical study of English and Welsh towns’, *Social History of Medicine*, 18 (2005), 39-61.

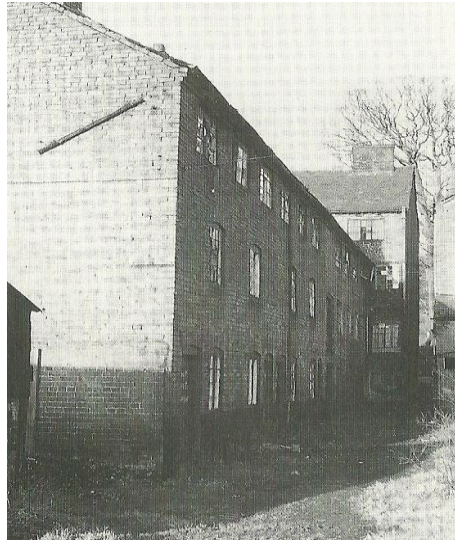


Figure 2.5: Picton's Row, off Park Street, one side of a block of back-to-back houses. The top storey is one shared workroom containing looms.

Thus in some respects the conditions in Newtown resembled those in the larger towns and cities. Another indicator of deprivation seen commonly in working-class areas of towns and cities was the pawnshop, where personal items could be exchanged for small quantities of cash. An advertisement for such an establishment appeared in the *Newtown and Welshpool Express* in 1871. The proprietor's name was Cornelius Owen, a licensed pawnbroker who would advance money on any type of goods including wearing apparel, gold and silver, and watches. Several traders, not pawnbrokers as such, put advertisements into the newspaper offering payment for 'any sort of goods'. Newtown was the only town showing a pawnbroker in Worrall's *Directory* of 1874. In nineteenth-century east London, there was a large trade in second-hand goods and such an outlet was a common way of fencing stolen goods, with some people making a living out of stealing clothes.³⁶ In Newtown, a Mrs Hibbott trading in Old Church Street, which was just around the corner from Russell Square, put a prominent note in her advertisement 'Secrecy strictly guaranteed'. Was this to reassure potential clients that they would not be humiliated by their dire need, or because she knew that some goods would have been stolen?

³⁶ Wise, *Blackest Streets*, pp. 65-66 & 98.

The picture of deprivation did not extend to all parts of the town. To the west of Penygloddfa lies Milford Road which was, and still is, a leafy and desirable area. It was described by J. B. Willans in 1905 as ‘one of the prettiest roads leading out of the town.’³⁷ It leads to a fulling mill known as Milford Factory, built by a wealthy London wholesale draper,³⁸ and the area is shown in Figure 2.6. An analysis of occupations is given in Table 2.5.

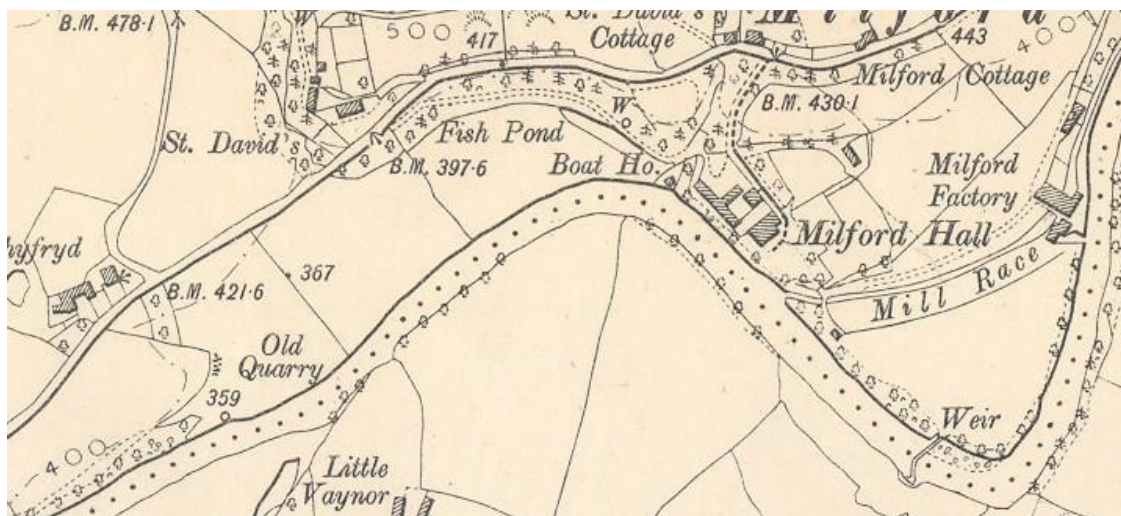


Figure 2.6: Map of Milford

³⁷ J.B. Willans, *The Byways of Montgomeryshire* (London 1905), p. 31.

³⁸ G. Rademan, 'The story of Milford Road', *Newtonian*, 30 (Newtown, 2007), pp. 10-17.

Occupation	Number
Domestic servant	20
Flannel/wool worker	9
Fuller	9
Agricultural labourer	6
Farmer	3
Flannel/wool merchant	3
Housekeeper	3
Annuitant	2
Flannel manufacturer	2
Coal Merchant	1
Cottager	1
Dressmaker	1
Gardener	1
General servant	1
Labourer	1
Magistrate	1
Retired	1
Supervisor of Inland Revenue	1
Total	66

Table 2.5: Occupations of residents of Milford Road

Noticeable here are the magistrate, supervisor of Inland Revenue and the large proportion of domestic servants – 23% compared to 2% in the Park Street yards. The magistrate's name was Major John Drew, and he will feature prominently in forthcoming chapters.

The nature of Newtown was similar to that described by Chesney in *The Victorian Underworld*:

In many spreading factory towns a familiar pattern of housing has already been long established. The prosperous had moved away from the source of their wealth to new suburbs, preferably on rising ground. Nearer in came belt after belt of houses, each less pleasant than the last, until the nucleus of the old preindustrial town was reached. Here, in an irregular ring around a grimy city centre, close to the smoke stacks and gables of mills and warehouses, and often to a black stinking waterway thick with sewage and industrial effluent, might be found decayed houses that had once stood on the edge of a market town and that were now enmeshed in a growth of courts and annexes.³⁹

³⁹ K Chesney, *The Victorian Underworld* (London, 1970), p. 94.

Some squalor existed in Welshpool at the time when the flannel industry was strong, as suggested by the 76 persons in narrow Red Lion Passage. Inspection of *The Newtown and Welshpool Express*, however, as in the reports of the local health board, shows central Newtown as being on its own in Montgomeryshire in terms of deprivation in the 1870s.

Incomers

Nineteenth-century economic migration is extremely well documented. As Newtown boomed during the first half of the century, people moved in from other areas as is clear from the census. E.G. Ravenstein in 1885 deduced seven laws of migration, the first of which stated that most migration covered short distances.⁴⁰ Analysis of population data from the 1871 census produces the results shown in Table 2.6. The areas of Penygloddfa and Russell Square, where there was a high percentage of wool and flannel workers, showed around 90% of heads of households who were Montgomeryshire-born. By comparison, in the retail area of Broad Street, middle-class Milford and multi-occupation Park Street, the figure was around 72%. This shows that non-flannel occupations were attracting relatively more people from outside the county than the textile districts, pointing to class and occupational differentials affecting migration.⁴¹

⁴⁰ Ravenstein's views on migration are cited in G. R. Boyer & T.J. Hatton, 'Migration and labour market integration in late nineteenth-century England and Wales', *Economic History Review*, 50 (1997), pp. 697-734. See also D. Friedlander and R.J. Roshier, 'A study of internal migration in England and Wales: part I', *Population Studies*, 19 (1966), pp. 239-79; N. Spencer & D. A. Gatley, 'Investigating population mobility in nineteenth-century England and Wales', *Local Population Studies*, 65 (2000), pp. 47-57.

⁴¹ See K.J. Cooper, *Exodus from Cardiganshire: rural-urban migration in Victorian Britain* (Cardiff, 2011); J. Saville, *Rural depopulation in England and Wales, 1851 to 1951* (London, 1957); A. Redford, *Labour Migration in England, 1800-1850* (Manchester, 1976).

Origins	Broad St	Milford	Park St Yards	Russell Sq	Penygloddfa Yards
Montgomeryshire	35	18	50	16	18
North Wales	2	1	4	1	1
South Wales	1		7		1
West Wales		1			
Outside Wales	9	5	3		
Total	47	25	64	17	20
Non-Montgomeryshire born (%)	26	28	22	6	10
Montgomeryshire-born (%)	74	72	78	94	90

Table 2.6: Origins of Newtown heads of household (from *National Census, 1871*)

Analysis of the origins of people in Newtown shows a result that is very similar to the analysis for Machynlleth, on the western side of the county, and Montgomery on the border with England. The origins of heads of households in arbitrarily-chosen streets in the centres of the towns were investigated, and Figure 2.7 shows graphically how in all three towns they were overwhelmingly locally born, with the figures for Newtown being virtually the same as for non-factory Montgomery. This agrees with E. R. Morris's assertion that industrialization did not prompt large-scale immigration.⁴² It is interesting to note that in Machynlleth, six persons born outside Wales were the Marquis of Londonderry's Scottish-born gardener and his family, and they did not stay in Wales. By the time of the 1881 census, they had all dispersed to locations throughout England, perhaps reacting to living among a Welsh population where their dialectal difference was conspicuous.

⁴² E.R. Morris, 'Woollen Industry', in Jenkins, *Historical Atlas*, p. 99.

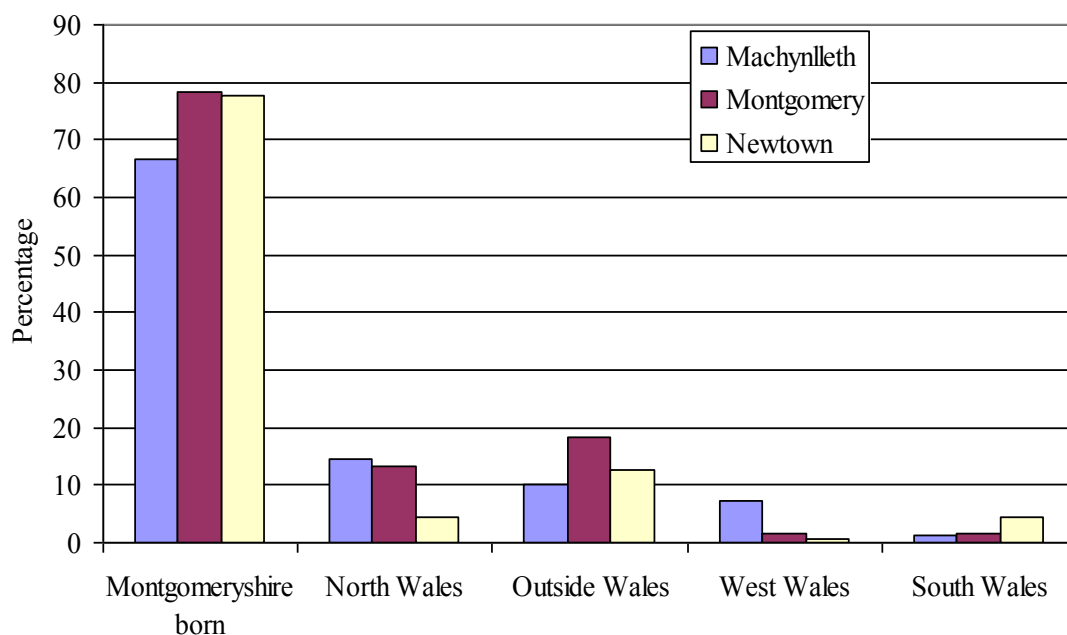


Figure 2.7: Origins of heads of households in three Montgomeryshire towns (60-70 persons studied in each location)

Welshpool also received migrants, as a study of randomly-chosen areas shows. Figure 2.8 shows a map of Severn Street. Red Lion Passage is the area on the northern side of the street, located to the left of the public house. Nineteen persons occupied the passage in 1871, seven of whom were Welshpool-born, with not one born outside the county. Severn Street itself was a generally middle-class area with most of the houses built for prosperous men. The residents of the street included a magistrate, a solicitor, an auctioneer and two army officers' widows. A list of the residents of the Red Lion side of Severn Street along with their origins is shown in Table 2.7.

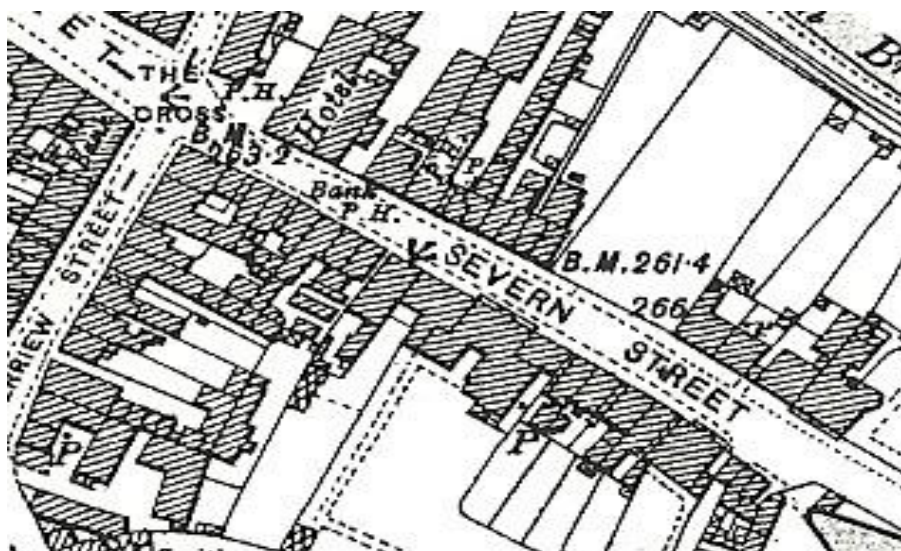


Figure 2.8: Map of Severn Street

Occupation	Origin
Fruiterer	Welshpool
Labourer	Montgomeryshire, Berriew
Borough magistrate	Shropshire
Builder	Sussex
Auctioneer	Montgomeryshire, Manafon
Widow	Suffolk
Chelsea Pensioner	Somersetshire
Shopkeeper	Welshpool
Agent & wool dealer	Welshpool
Tailor	Montgomeryshire, Llanfair

Table 2.7: Heads of household, Red Lion side of Severn Street (from *National Census, 1871*)

On the other side of town from Severn Street was an area noted for the presence of a water course known as the Lledan brook. A leat drawn from it powered a corn mill and near to the mill was a row of mainly back-to-back cottages offering 15 separate properties and known as Mill Place. In 1871 all the properties were occupied: the miller and his family lived there along with 10 other households. These households included skilled trades people such as watchmaker and shoemaker, and only a very small proportion of unskilled workers. The full list is given in Table 2.8. Most of the heads of household were incomers and several came from a significant distance away. The miller originated in northern Montgomeryshire, about 10 miles away from

Welshpool and his wife came from Oswestry. The watchmaker, who had come to Welshpool from Liverpool, was clearly an itinerant as the 1861 census shows him living in the Lake District, and in 1881 he was living in Lancashire with children born in Kendal and Birmingham. Near to Mill Place was an armoury, home to the Montgomeryshire Militia. The effect of this establishment is clear from the occupations and places of origin of its residents: seven sergeants and their wives and children, with only some children and one sergeant being born locally. All the others were born in disparate parts of the British Isles including Ireland. The wife of the locally-born sergeant was Irish and his daughter was born in the West Indies. Ten years before, the Armoury had been even more cosmopolitan with residents' origins including America, and in the 1850s the area was known as 'Ireland'.⁴³ This analysis shows that, as in Newtown, non-flannel industries attracted immigrants from outside the county.

Heads of households	Origin
Needlewoman	Welshpool
Watchmaker	Liverpool
Gardener	Kent
Labourer	Welshpool
Boot and shoemaker	Meifod
Annuitant	Shropshire, Oswestry
Shoemaker	London
Miller	N.K.
Insurance agent	Somerset
Nailor	Montgomeryshire
Sawyer	Montgomeryshire
Landowner	Montgomeryshire, Guilsfield
Tailor	Montgomeryshire, Guilsfield

Table 2.8: Occupations and origins of heads of household in Mill Place (from *National Census, 1871*)

⁴³ See National Census, 1851.

The middle and upper classes

The trade directories include lists of each town's resident gentry or so-called 'private residents'. For example, Worrall's *Directory* of 1874 lists 65 of these householders in Machynlleth, including the Marquis of Londonderry. In Welshpool, there were nearly 100 nobility, gentry and clergy, and it has been possible to trace some of them through the censuses. Charlotte Clive was living in Elmhurst on the edge of Powis Castle Park, shown in Figure 2.9, which may have been one of the houses Defoe spoke of approvingly. From her name and place of birth it appears that she was related closely to the Earl of Powis, who was a descendant of the first Lord Clive. She remained unmarried throughout her life and appears to have lived most of it in Welshpool with a retinue of servants. In 1841, two of her near neighbours were builder John Baggaley and his wife Martha. John Baggaley was dead by 1851 but on the census Martha describes herself as master builder's widow and was living in a large house named Dolanag, adjacent to Charlotte Clive's house. William Yearsley spent his childhood in Severn Street. He was the son of a solicitor and became a lawyer himself. He was living with his widowed mother in 1861 but by 1871 was living in the plush Golfa area, neighbour to a baronet's widow.



Figure 2.9: Elmhurst, Welshpool.⁴⁴

⁴⁴ Picture hanging in the council offices, Welshpool. Picture reproduced by permission of Robert Robinson, town clerk. The picture may have been painted by Walter Millard, a later occupant of the house, noted architect and artist. Obituary of Walter John Nash Millard, *Collections Historical and Architectural relating to Montgomeryshire*, 44 (1936), pp. 136-7.

Newtown had over 100 private residents listed, and Llanidloes had 42. Montgomery, perhaps the most genteel of the towns, with its elegant Georgian architecture and absence of heavy industry, featured 71, including the Earl again as he owned a property in that town too. Investigation of names around the county shows that many were the new rich, including those who had made fortunes in industry elsewhere and had come to live in Montgomeryshire. Among these were Lancashire-born John Dugdale, a former calico printer now living in Llanfyllin, and William Fisher, a Liverpool druggist now with a plush mansion near Welshpool. Perhaps a man would know he had arrived in society when he achieved a listing in the directory, and Melvin Humphreys refers to the '*arrivists*' who 'renewed the gentry class' as one old family left and another took its place.⁴⁵

An indication of the aspiring middle classes was perhaps the existence of private schools. In Welshpool there was a tone of professionalism created by a commercial academy held in the High Street, and a commercial and collegiate school further along the road. Both produced impressive advertisements advocating their quality and the successes of their students. The advertisements give an insight into the curricula offered: older boys were offered studies in scripture, reading, arithmetic, geography and book-keeping, and could be prepared for university entrance and civil service examinations. French and Latin were offered at an additional cost. The Misses Oakley and Hodges boarded three young boys with four older girls, in a school established in her coal-dealer father's house. One of the children had a distinctive name that can be traced easily: Edward E. W. Ebrall, the son of a Shrewsbury gunsmith. Miss Oakley was well educated, having attended a boarding school in Shrewsbury in her teens, and her school in Welshpool went on to thrive, still running into the 1880s. The same array of private educational enterprise was found in all the Montgomeryshire borough towns, and the provision of private education attracted at least five school proprietors who were non-natives of the county. Their origins included Shropshire, Derbyshire, Warwickshire and Oxford. Boarding pupils arrived not only from Great Britain but many parts of the world including Switzerland and the U.S.A.⁴⁶

⁴⁵ Jenkins, *Historical Atlas*, p. 59.

⁴⁶ These features of the county's education are covered in R. Jones, 'Private schools in nineteenth-century Montgomeryshire', *Mont. Colls*, 102 (2014). On nineteenth-century educational provision in Montgomeryshire see Phillips, *A View*, pp.150-9 and Jenkins,

Outside the borough towns

The more urban areas of the county have been highlighted thus far, and a comparative settlement is Berriew, located between Newtown and Welshpool, which shows both rural, industrial and commercial features. The village is five miles south-west of Welshpool at the confluence of the rivers Severn and Rhiw, and is a preserved, pre-industrial village.⁴⁷ The church of St Beuno is early nineteenth century, built on the site of a much earlier church and the village has several examples of timber-framed cottages. There are also medieval farmhouses situated around the wider parish and four drinking establishments, all very old. As Berriew village is small, the nearby hamlets of Garthmyl and Efail Fach were also included. Figures 2.10 and 2.11 show the three areas. In future discussions, 'Berriew' will mean the three localities together.

Berriew was originally a land of strip cultivation, waste and commons but at the end of the eighteenth century, under pressure from landholders, it began to be enclosed.⁴⁸ The lord of the manor was the Earl of Powis and other major landholders were the Winder family of Vaynor Hall, Arthur Owen of Glansevern and the trustees of a school charity. A Parliamentary Act of 1796 enabled the enclosure of most of Berriew, and an Act of 1801 enclosed the remainder. The earlier Act gave a measure of protection to squatters but none was provided in Berriew in 1801. At this time, the Earl was given 174 acres as compensation for his loss of rights, and several owners took the opportunity of transferring sections of land in order to consolidate holdings. An interesting feature was that common land in certain areas on either side of the river Rhiw was shared, meaning that persons living in one area had rights in another.⁴⁹ The new gentry, with their purchasing of small estates, and the enclosure Acts of the late eighteenth and early nineteenth centuries which consolidated private, enclosed parcels of ground, suggest that poaching may have become a serious issue in areas such as

Historical Atlas, p. 85. The place of quality education in the lives of the middle classes see 'Education' in D. Hay (ed.), *The Oxford Companion to Local and Family History* (Oxford, 1996), pp. 141-149.

⁴⁷ R. Haslam, *The Building of Wales- Powys* (1979, London, 2003), pp. 76-80.

⁴⁸ D.W. Smith, *Aberriw to Berriew: The Story of a Community* (Newtown, 1992), p. 11.

⁴⁹ Smith asserts that such intercommoning has not been found elsewhere (*Aberriw to Berriew*, p. 13).

Berriew. Jones describes poaching as a good index of social tension, and mentions instances of violent poaching that were revenge attacks, demonstrations against the new poor law, evictions and enclosure. He states: 'Enclosure awards which gave proprietors a monopoly of game and fishing rights were often bitterly resented. A good number of offences in mid Wales and the English Midlands occurred on disputed property or recently-enclosed land.'⁵⁰ The issue is raised in forthcoming chapters.

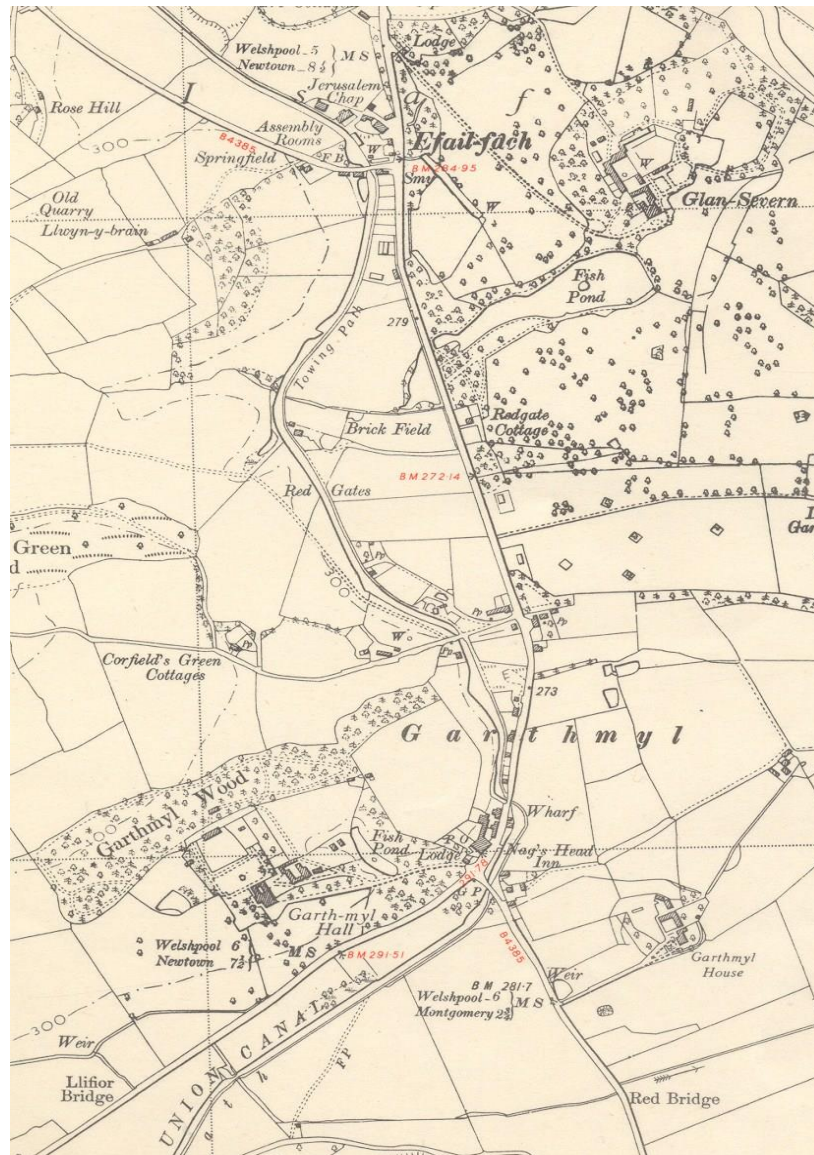


Figure 2.10: Map of Garthmyl and Efail Fach

⁵⁰ D.J.V. Jones, 'The poacher: a study in Victorian crime and protest', *The poacher: a study in Victorian crime and protest*, *Historical Journal*, 22 (1979), p. 838. See also his comments in 'Crime, protest and community', p. 116.



Figure 2.11: Map of Berriew village

Industry and incomers to Berriew

There were four mills within a short distance of the village which indicate industry, and study of the 1841 census shows that there was a flannel industry with a wool spinner and two weavers. The village was once thriving: the 1861 census shows people moved in from all over the country including Scotland, and the origins of heads of household in 1861 and 1871 are shown in Table 2.9. The presence in 1861 of eight carpenters/joiners, a brickmaker, two plumbers, a timber merchant, a lath cleaver (splitter of timber), an architect, a mason and a plasterer show that the village was growing, and although in 1861 there were only 315 residents, the village merited a policeman. A notable feature in the statistics is the huge rise in labourers by 1871. The number had jumped by 400%, suggesting plenty of available work. The result of the building work was obvious because by 1871 the population had risen to 396, a rise of over a quarter. Some of the farms listed on the 1871 census were new, others were restored previously unoccupied ones.⁵¹ The building work, however, appears to have largely stopped by the early 1870s as the group of workers involved in the building trade now consisted of four carpenters only. As well as the loss of builders, the number of different occupations overall had fallen by over 50%, from 56 to 24. The

⁵¹ The owners of the Vaynor Estate in Berriew carried out a major programme of restoration in the 1880s and some restoration work may have been going on in the 1860s also. R. Haslam, *Building of Wales*, p. 78.

proportion of people aged under 16 years stayed virtually the same: 35% in 1871 compared to 37% in 1861. Six people had arrived in Berriew from Welshpool; two of these were small children, two were women who had married relatively prosperous men *viz.* the malster and a farmer, one was a labourer and the other gave no occupation but was living on her grandparents' small farm.

Origin	1861	1871
Berriew	19 (30%)	29 (36%)
Montgomeryshire (excluding Berriew)	28 (44%)	42 (52%)
A Neighbouring county	7 (11%)	4 (5%)
Elsewhere	9 (14%)	6 (7%)
Total	63	81

Table 2.9: Origins of heads of household in Berriew

The statistics for place of origin of wives of heads of household match this. The graphs in Figures 2.12 and 2.13 show very similar percentages. Both indicate clearly how Montgomeryshire-born persons dominated the social mix, with a small representation of incomers.

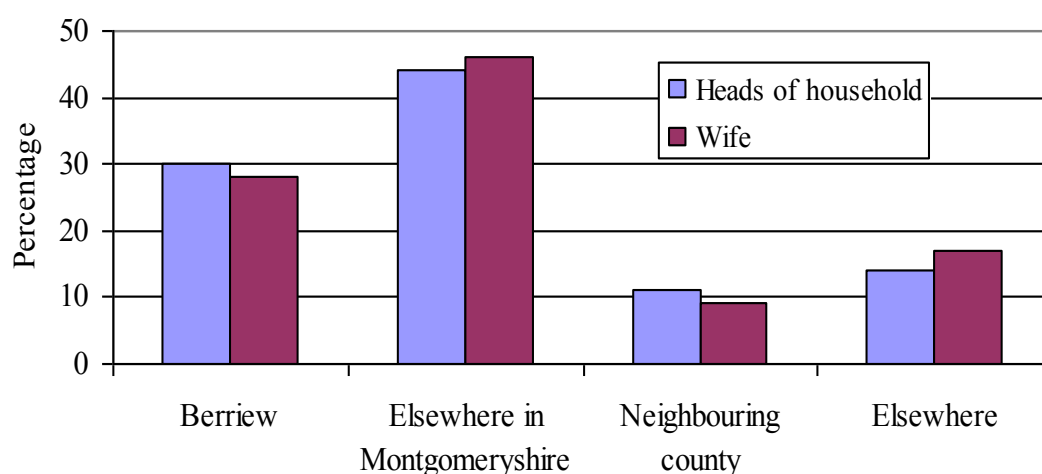


Figure 2.12: Origins of heads of household and their wives in Berriew, 1861

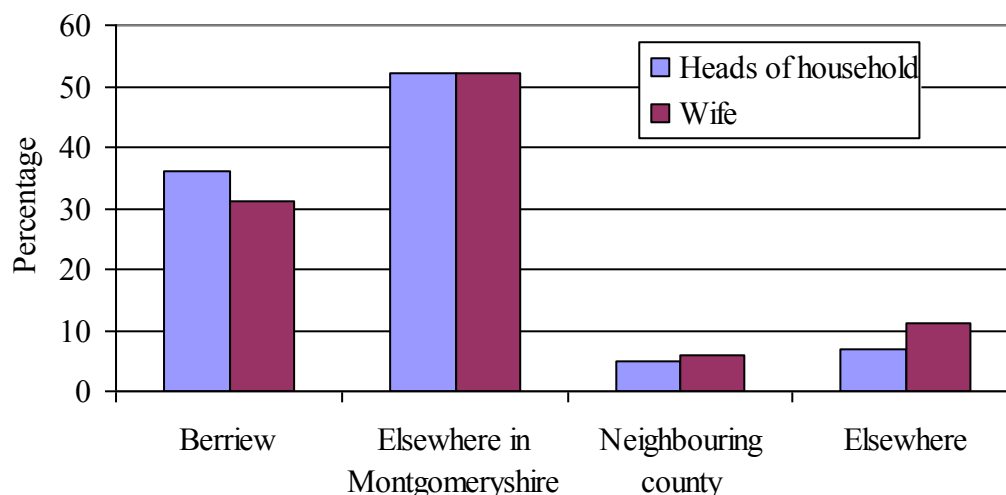


Figure 2.13: Origins of heads of household and their wives in Berriew, 1871

A picture emerges of locally-born farmers maintaining and cultivating land rented from wealthy landlords, with scattered properties largely occupied by Montgomeryshire people, with a few incomers who were often labourers.

Implications for the Welsh language in the county.⁵²

At the time of Defoe's visit to Montgomeryshire in the 1720s, a sizeable proportion of the local population spoke Welsh as their first language. Returns from parish clergy in the following century showed that Welsh, English and bilingualism were all represented, although there were clear-cut parts of the county where each predominated.⁵³ Dot Jones warns that there are difficulties with interpreting the returns,⁵⁴ but parishes in the north and west were virtually monoglot Welsh; eastern communities within the flood plain of the Severn were almost completely English; and a narrow 'transition zone', or bilingual zone, lay between.⁵⁵ Newtown would have contained many English, and the 1847 education reports, denounced by many as being

⁵² On this topic see W.T.R. Pryce, 'Changing language geographies of Montgomeryshire', in Jenkins, *Historical Atlas*, pp. 118-124; E.M. White, 'The established church, dissent and the Welsh language' in G.H. Jenkins (ed.) *The Welsh Language before the Industrial Revolution* (Cardiff, 1997), pp. 253-4 on the flow of bilingualism across northern Montgomeryshire; J. Edwards, *Language and Identity: an Introduction* (Cambridge, 2009).

⁵³ D. Jones, *Statistical Material Relating to the Welsh Language, 1801-1911* (Cardiff, 1998).

⁵⁴ Jones, *Statistical Material*, p. 211.

⁵⁵ Pryce, 'Changing language', p. 119.

Anglo-centric and ignorant, confirmed the overwhelming Welshness of western districts, and the considerable presence of English in the east at that time.⁵⁶ In 1824 printer Jackson Salter produced the rules for Newtown Welsh Society showing representation of the language in the town, although the formation of the society means that Welsh was not the norm.⁵⁷ At the time of change from Welsh predominance to English, the manufacturing centre along the Severn valley had emerged. The transport routes identified earlier served as a language route also, with English entering the county. Direct contact with Shropshire influenced English characteristics of eastern Montgomeryshire, but it was noted in 1882 that if ‘constant migration of Welsh-speaking people from the hill country [in] the north into the more fertile valley land’ had not occurred, ‘the Welsh language would have died out much faster’.⁵⁸ The earlier town analyses confirm that a small number of people from the Welsh heartlands of the west and north were resident in Montgomeryshire, but Ravenstein’s language survey showed that by 1871 in eastern Montgomeryshire, only 4.4% of the population spoke Welsh either mono- or bilingually.⁵⁹

Earlier, the presence of private schools was cited as an indication of the presence of an aspiring middle class. One such establishment, with a boarding department, was founded in Llanidloes in 1877 with a distinct Welsh ethos. Its proprietor was Hugh Jerman – noted artist, musician and winner of a prestigious prize at a national eisteddfod.⁶⁰ Jerman advertised his school in Welsh language newspapers published in north Wales, and promoted his eisteddfod success.⁶¹ Thus it is likely that the school brought in Welsh speakers from the north, and that in Llanidloes there was a sizeable

⁵⁶ Pryce, ‘Changing language’, p. 120. The critical government reports, entitled *Report of Commission of Enquiry into the State of Education in Wales, 1847*, are held at the National Library of Wales. The data on Montgomeryshire are in volume 3.

⁵⁷ J. I. Davies, ‘The history of printing in Montgomeryshire, 1789-1960’, *Mont. Colls*, 70 (1982), p. 72.

⁵⁸ Pryce, ‘Changing language’, p. 121.

⁵⁹ E.G. Ravenstein, ‘On the Celtic Languages in the British Isles: a statistical survey’ quoted in Jones, *Social History*, p. 224. Linda Colley describes how industrialization sucked in migrants and changed Welsh identity by weakening the grip of the Welsh language and by bringing people from north and south Wales into greater contact: L. Colley, ‘Acts of union and disunion: Wales’, BBC Radio 4, 15/1/2014.

⁶⁰ E.R. Morris, ‘Hugh Jerman’, *Mont. Colls*, 72 (1984), pp. 47-52.

⁶¹ Jones, ‘Victorian schools’. For a description of the contribution of eisteddfodau to Welsh culture see H. Richard, *Letters and Essays on Wales* (London, 1884), pp. 44-52.

Welsh-speaking middle class. This affected the workings of the Petty Sessions in Llanidloes, and verdicts in the higher courts when juries included men from the Llanidloes area. More will be said on these aspects of the justice system in forthcoming chapters.

Religion.⁶²

Anglicanism was bolstered in Wales by the translation of the Bible into Welsh in the sixteenth century. In Montgomeryshire, later diversion of tithes to north Wales and England, and victimisation of Dissenters caused deep divisions between the established, Church of England and those who would not conform.⁶³ These rifts became deeper during the eighteenth century when absentee clerics allowed Dissenters to gain a foothold in previously loyal Church of England areas.⁶⁴ By the 1850s, they often outnumbered members of the established church by four or five to one, being particularly strong in industrial areas and the characteristics of their beliefs

⁶² For comprehensive detail and discussion on all of the following, see K.D.M. Snell & P.S. Ell, *Rival Jerusalems: the Geography of Victorian Religion* (Cambridge, 2000). See also C. Davis, *Religion and Society: Essays in Social Theology* (Cambridge, 1994).

⁶³ Tithe riots took place during the 1880s when Montgomeryshire farmers revolted against paying taxes to Church of England landlords. (See D.W. Smith, 'The tithes to their end in Montgomeryshire: an introduction', *Mont.Colls*, 84 (1996), pp. 134-135; *Minutes of Evidence of the Commission of Inquiry as to Disturbances Connected with Levying of Tithe Rent Charge in Wales* (House of Commons, 1887) pp. 157-167). The solicitor who defended some of the farmers said, 'We have 25 men in the parish of Meifod who are good and true to their principles, and do not believe in contributing taxes to an alien church with which they are not in sympathy, from which they get no benefit and in which they do not believe. That is the truth of the case in so far as we are concerned but we wish it to be understood that we are attacking not individuals but principles. What we are attacking and shall continue to attack till wrongs are righted is a system built up upon a rotten foundation.' 'Obituary of Martin Woosnam', *M.E.*, 2/2/1924. For an excellent discussion on the reasons for the decline in popularity of the Church of England in Wales see 'The established church' in D.G. Evans, *A History of Wales, 1815-1906* (Cardiff, 1989), pp. 80-85. See also H. Richard, *Letters on the Social and Political Condition of the Principality of Wales, Reprinted from the Morning and Evening Star* (London, 1866).

⁶⁴ T.W. Pritchard, 'The Church in Wales'; Jenkins, *Historical Atlas*, pp. 67-73. See also J. Johnes, *Causes of Dissent in Wales* (1832, London, 1870), which argues that the main reasons for the decline of the established Church was not so much the popularity of the Dissenting chapels but the unpopularity of the Church. (Discussed in Phillips, *A View*, p. 145. Phillips also states that by 1880, Nonconformists made up 80% of the population (*ibid.*, p. 149).

coloured modern Welsh history.⁶⁵ Nonconformists, by the mid- nineteenth century, were part of mainstream Welsh life.⁶⁶

Nonconformist chapels became widespread, and the 1850s–60s was a critical period which launched a new wave of chapel building.⁶⁷ By the period of study here, these buildings were scattered liberally across the county. The large parish of Llangurig, for example, contained one church and seven Nonconformist chapels.⁶⁸ Religion contributed to education in the form of Sunday schools, and by mid century over 250 of these existed in the county, of which 90% were run by Nonconformists, providing teaching mainly in Welsh.⁶⁹ Many Anglican clerics were Welsh speakers, however. For example, among members of the committee of the Newtown Welsh Society were the vicar of Kerry and the rector of Manafon,⁷⁰ and well into the nineteenth century, Anglican services were often in Welsh because many worshippers could not understand any other language.⁷¹ From Tudor times a bishop could refuse to institute a clergyman in a parish where the common language was Welsh if the man could not speak Welsh.⁷² About 30% of clergy in the Established Church were from a Nonconformist background but had taken orders with the Church of England because of its stipendiary posts.⁷³ Nevertheless, Established Church clergy were sometimes wealthy English-speaking landowners, and occasionally related to aristocratic families, as for example the Reverend R.J. Harrison who was related to Viscount Hereford, and Canon John Herbert, who inherited his mansion on the edge of

⁶⁵ P. Jenkins, *A History of Modern Wales, 1536-1990* (London, 1992), p. 190; Evans, *A History of Wales*, pp. 76-80. See also Richard, *Letters and Essays*, pp. 1-35.

⁶⁶ A. Jones, *Welsh Chapels* (Stroud, 1984), p. 49. Jones states that by the mid 1850s the vast majority of the population of Wales was in some way directly associated with a chapel.

⁶⁷ Jones, *Welsh Chapels*, p. 46.

⁶⁸ See maps in Jenkins, *Historical Atlas*, pp. 73-82.

⁶⁹ Phillips, *A View*, p. 150.

⁷⁰ Davies, 'The history of printing', p. 72.

⁷¹ White, 'The Established Church, dissent and the Welsh language', p. 239.

⁷² M. Jarman. 'The Welsh language and the courts' in T.G. Watkin and N.S.B. Cox (eds), *Canmlywddiant, Cyfraith a Chymreictod: A Celebration of the Life And Work of Dafydd Jenkins, 1911-2012* (Bangor, 2011), p.171.

⁷³ R.L. Brown, 'The Reverend David Davies, Rector of Llansilin, 1876-1901', *Mont. Colls*, 101 (2013), pp. 109-116.

Newtown from his mother.⁷⁴ As early as 1795, parishioners in the village of Bettws Cedewain near Newtown (part of Lord Sudeley's Gregynog estate) had to attend services in English because of the appointment of an English-speaking curate.⁷⁵ The English bishops of the two dioceses which controlled most of Montgomeryshire also sometimes appointed their English relatives and friends to benefices.⁷⁶ This contributed to the idea of some that the Church of England in Wales was in a privileged position propped up by English landlords,⁷⁷ and it was proposed in a House of Commons debate in 1869 that 'there never was such a time in the history of the country when the upper classes and the Church of England were so unpopular in Wales'.⁷⁸ This debate came one year after the Conservatives had been defeated in a general election and two years after the second Reform Act, which gave the vote to many lower middle-class and working-class men. Conservatives were seen to be supporting the Crown and Anglican Church, while Liberals often endorsed Nonconformity, religious tolerance and electoral reform. Two active politicians in Montgomeryshire were Charles Hanbury-Tracy (later Lord Sudeley) and the Earl of Powis, Liberal and Conservative respectively, and such men often encouraged their tenants to support their respective allegiances.⁷⁹ Hanbury-Tracy had been one of the so-called 'Adullamites' who had voted against his own party's Reform Bill in 1866,⁸⁰ a decision which returned to haunt him in due course and helps explain why, in the following decade, he actively courted the new breed of voting tenants by building Nonconformist chapels and better housing.⁸¹ There were implications for the

⁷⁴ Shrewsbury School Register, 1874-1908, <https://archive.org/details/shrewsburyschool00shreuoft> (viewed 6/11/2011).

⁷⁵ White, 'The Established Church', p. 241.

⁷⁶ Humphreys, *The Crisis*, p. 42.

⁷⁷ Pritchard, 'The Church', p. 72.

⁷⁸ Reported in *N.W.E.*, 23/3/1869.

⁷⁹ Voting became secret in 1872, giving the enfranchised more ability to vote as they pleased. R. Woodall, 'The Ballot Act of 1872', *History Today*, 24 (1974), pp. 464-71. See also a description of voting tenants being persecuted by unscrupulous landlords in 'Territorial Tyranny in Wales', *The Bradford Observer*, 9/7/1869, p. 2; 'Political oppression by Welsh landlords', *The Wrexham Advertiser*, 10/7/1869, p. 6.

⁸⁰ R. Wallace, 'Wales and the parliamentary reform movement', *Welsh History Review*, 11 (1983), p. 483.

⁸¹ R. Jones, 'The Gregynog Estate, 1880-1920', unpublished M.A. dissertation, University of Leicester (2007). Copy at Newtown (Powys) library and the Powysland Club library, Welshpool.

courtroom too. It is worth noting here that both these aristocratic men had major roles on the Bench, being Lord Lieutenant and chairman respectively, and many of their tenants were eligible for jury service.

In an overwhelmingly Protestant county, there was one element of Roman Catholicism. This was in Welshpool where, possibly due to Irish membership of the militia, railway building and emigration from the famine, a church was established in the town by 1861 and listed in Worrall's *Directory* of 1874.⁸² The number of adherents at this church was only 20 according to the religious census of 1851.⁸³ At this time, Irish immigrants in Wales were on the margins of 'respectability' due to their Catholicism. The Irish were believed to inhabit the worst areas of towns, such parts often gaining the epithet 'Little Ireland', and there was a part of Welshpool known as 'Ireland'. As well as this, people, including some Protestant clergymen, blamed the Irish for the poor findings of the compilers of the 1847 education reports.⁸⁴ Specific trouble had occurred in the early 1860s in southern Montgomeryshire when rioting broke out because Welsh railway navvies were losing their jobs to Irish who accepted lower wages.⁸⁵ Thus there were, in 1870s Welshpool and the wider county, inevitably strong anti-Irish tensions and incidents.⁸⁶

⁸² See also lists of denominations present in the county. Jones, *Statistical Material*, pp. 451-2. For comment see 'Roman Catholicism and Irish immigration' in Snell and Ell, *Rival Jerusalems*, pp. 173-84.

⁸³ Jones, *Statistical Material*, p. 452.

⁸⁴ P. O'Leary, 'The Irish and crime' in P. O' Leary, *Immigration and Integration: the Irish in Wales, 1789-1922* (Cardiff, 2000), pp. 165-167. Protestant clergymen also blamed 'immoral teachings of Dissent', see comment in Richards, *Letters and Essays*, p. 36 and p. 52.

⁸⁵ 'Riot on the Mid-Wales Railway', reprinted in G. Roberts (ed.), *Pencambria*, 23 (2013), pp. 34-5.

⁸⁶ P. O'Leary (ed.), *Irish Migrants in Modern Wales* (Liverpool, 2004), pp. 121-4. Note also that anti-popery riots had taken place in Birmingham (about 80 miles away) in the late 1860s. V. Bailey, *Policing and Punishment*, p. 70. See also R. Swift and S. Gilley (eds), *The Irish in Victorian Britain: the Local Dimension* (Dublin, 1999); J. Maclaughlin, 'Pestilence on their backs/famine in their stomachs!: the racial construction of Irishness and the Irish in Victorian Britain' in C. Graham and R. Kirkland (eds), *Ireland and Cultural Theory: the Mechanics of Authenticity* (Basingstoke, 1999), pp. 50-76.

Conclusion

Montgomeryshire had been an agricultural county with flannel making carried on only as a cottage industry, or as a supplement to a farming income, until the last quarter of the eighteenth century. The nature of the county changed to an extent as the flannel industry became factory-based along the Severn valley. In linguistic terms, a division that had existed since earlier times with Welsh in the west and English in the east probably became more pronounced. Court users probably heard Welsh spoken around them, but in eastern courtrooms the majority were using English. There was a rich mixture of accents as Montgomeryshire residents originated from a wide range of geographical locations. Conversation was likely to include religious and political topics, with unspoken tensions over these matters present in the retiring room and jury room.

The county population was largely a mix of agricultural and factory workers with others including shop workers and labourers, washerwomen, clerks and artisans. The proportion of the upper orders in the community was small and there were few of this class in court apart from administrators of justice, some of whom were bilingual and were clergymen in the established Church of England. There was poverty and squalor in some urban quarters, with contrasting pictures in the architecture of, for example, Milford Road in Newtown, or Elmhurst in Welshpool. In the farming community, too, division existed between well-off farmers and poorer ones, and further divides between farmers and their servants. Particular prosperity was identified in agriculture in the east, although a comfortable living could be found in some western farmsteads.

The following chapter investigates the men most often seen handing out justice in the community, namely the magistrates and the police.

Chapter 3

The Legal System

Men, Motivation and Status



This chapter begins an investigation into the courts and the system of law enforcement that existed during the period under study. There is an exploration of the nature of the county Bench of magistrates, how far they conformed to the country-wide pattern of appointment, and consideration of whether their social position and daily lives might have had a bearing on their judgements in court. The work of policemen will be examined and – for both magistrates and police – an exploration of possible motivations for their execution of duty will be made. Finally, a survey of the justice system as seen in the landscape will be undertaken.

The courts of Petty and Quarter Sessions

The courts have been described as the ‘heart of the criminal justice system’,¹ and were the public face of the laws of the land.² Petty and Quarter Sessions dealt with most criminal matters, presided over by magistrates who were drawn from the

¹ D. Taylor, *Crime, Policing and Punishment in England, 1750-1914* (Basingstoke, 1998), p. 106.

² Great Britain, of course, included Wales. Note Richard Ireland’s argument that the legal and constitutional status of Wales being identical to that of England may have led to Welsh legal history receiving little attention, despite its cultural differences which may have had a distinct bearing on crime and its prosecution. R. Ireland, ‘A second Ireland? Crime and popular culture in nineteenth-century Wales’, in R. McMahon (ed.), *Crime, Law and Popular Culture in Europe, 1500-1900* (Cullompton, 2008), pp. 239-261.

community.³ These men owned property worth at least £100 per annum, and therefore were not representative of the general public.⁴ As well as administering justice, Quarter Sessions constituted a form of local government, with responsibility for, among other things, administering the poor law and maintenance of bridges and roads.⁵

The Montgomeryshire Bench in the 1870s

From study of newspaper reports of sessions, censuses and justices' qualification rolls,⁶ a list of 72 justices on the Commission during the 1870s has been compiled and their backgrounds explored through the censuses (See Appendix 1).⁷ As expected from the earlier discussion, the men were mainly from the land-owning class and the Anglican clergy.⁸ However, the steady curtailment of the upper class's monopoly on wealth, education and widely-travelled experience as discussed by Thompson is seen,⁹ as a small number of those on the Bench had paid employment, viz. three surgeons (one of whom had noble connections), two lawyers and a wine merchant. Six had been army officers.¹⁰ Several of the magistrates were on the Bench by way of

³ For a comprehensive history of the magistracy see T. Skyrme, *History of the Justices of the Peace*, Vols 1-3 (Chichester, 1991); D.J. Cox and B.S. Godfrey (eds), *Cinderellas & Packhorses: a History of the Shropshire Magistracy* (Woonton, 2005).

⁴ See H. Johnston, 'The Shropshire magistracy and local imprisonment: networks of power in the nineteenth century', *Midland History*, 30 (2005), p.68.

⁵ 'Justices of the peace' in D. Hey (ed.) *The Oxford Companion to Local and Family History* (Oxford, 1996, 1998) p. 253; P.J. Stead, *The Police of Britain* (London, 1985), p. 11-13; Chapters 1-3 in T. Skyrme, *History of the Justices of the Peace* Vol. 1, pp.1-40. See also H. Johnston, 'The Shropshire magistracy' for possible motivations for men taking on these roles. For a comprehensive description and discussion of the history and role of the magistracy see S. and B. Webb, *English Local Government: Parish and County* (London, 1924), pp. 350-60 & 484-88.

⁶ P.C.A., Justices Qualifications Rolls, 1843-1900, M/QS/JQ/3 & 4.

⁷ Most of these were members of the Bench for the whole period. Only a handful joined or left during the period under study.

⁸ See F.M.L. Thompson, *English Landed Society in the Nineteenth Century*, (London, 1963), pp. 109-111 for a discussion on admission to the county Bench.

⁹ Thompson, *English Landed Society*, p. 185.

¹⁰ Jones found that in the mid 1880s in the rural counties of Anglesey, Cardiganshire and Radnorshire out of a total of 286 justices, 228 were gentry, 24 clergy, 27 ex-military, 3 medical and 4 lawyers. There were no justices with trade occupations. (Jones, *Crime in Nineteenth-Century Wales*, p. 17).

ownership of land in Montgomeryshire although they resided in other counties.¹¹ One of these out-of-county justices had been M.P. for a Shropshire constituency but lost his seat in 1868, and one was M.P. for Peterborough; one was a Chester industrialist, and one – a clergyman normally resident in Staffordshire – had inherited land from an industrialist relative.¹² Six of the justices appear to have lived solely on an income from land (other than by being farmers),¹³ and several did not have an identified source of income. A number were involved with the Montgomeryshire militia. The list includes five members of the aristocracy who took their positions on the Bench only at Quarter Sessions. Certain features in the censuses are notable: the justices could sometimes be found on holiday, visiting out of county or receiving visitors; it was not uncommon for their sons to receive a university education and to enter the professions, and for their wives and daughters to have ladies' maids. Most of the justices ended their days retired and living on annuities and many of their surviving residences are now listed buildings and/or feature in *The Buildings of Wales* series.¹⁴ This description of the county Bench, with fewer than 100 men from the nobility, landowning and new-gentry classes, sitting in judgment on a population of some 68,000,¹⁵ appears to reinforce the idea of a mutual interest in the preservation of rule by men of influence and high local standing.¹⁶ It also seems to agree with a picture

¹¹ By an Act of 1723, county justices had to own or occupy land in the county worth £100 or more (with a few exceptions such as eldest sons of peers and Privy Councillors) D. Bentley, *English Criminal Justice in the Nineteenth Century* (London 1998), p. 20.

¹² There are short biographies of Robert Jasper More and Sir Thomas Gibbons Frost at http://en.wikipedia.org/wiki/Robert_Jasper_More and <http://www.british-history.ac.uk> (11/3/2011). George Hammond Whalley has an entry in *D.N.B.* For information about Rev. William Bishton Garnett Botfield see 'Decker Hall' at www.anatpro.com/index_files/Annie_Augusta_Garnett_Botfield.htm (viewed 15/3/2014).

¹³ Landed ownership became fashionable at the time of the Industrial Revolution amongst wealthy families looking to acquire social status. The trend was to buy so-called 'villa estates' with land that gave them the status of gentry. 'Landowners' in *The Oxford Companion to Local and Family History*, p. 264.

¹⁴ Some of the magistrates' houses are in R. Haslam, *The Buildings of Wales: Powys (Montgomeryshire, Radnorshire, Breconshire)* (New Haven and London, 2003). Listed building can be found easily on the British Listed Buildings website: <http://www.britishlistedbuildings.co.uk> and Frost's and Hilton's houses in the north of England were found by using an internet search engine.

¹⁵ Figure from *Census of England and Wales, 1871, P.P.* volume 1, population summary table V.

¹⁶ See Thompson, *English Landed Society*, p. 185. Cox and Godfrey found a similar composition on the Shropshire Bench on which the Earl of Powis also had a seat. Godfrey, *Cinderellas*, pp. 43-7.

described by Bagehot, a few years before the start of the period studied, of a deferential community with the ‘rude classes’ at the bottom.¹⁷ This picture is one that will be examined in forthcoming chapters.¹⁸

Hierarchies

The ‘rude classes’ may well have regarded any man on the Bench as upper class,¹⁹ but among the magistrates there were divisions. Perhaps the most obvious of these would have been between county and borough justices. Most of the Welshpool magistrates, for example – who were on the Bench as elected members of the town corporation and not necessarily occupiers of £100 estates – lived in town houses with gardens, not estates.²⁰ They might employ a live-in maid, but there would be no butler, lady’s maid or coachman; and whereas a landed gentleman relied on income from his tenants and from investments,²¹ mayor and surgeon Thomas Barrett was reliant on the patients who paid his fees, and Griffith Parker on the customers who bought his wine. In this way, the borough justices had a similarity with the court attendees who appeared before them, and this similarity may have been reflected in the way they dealt with offences.²² Pointedly, these men worked for their livings, and possibly would have been the sort of men from whom the old-gentry expected deference, not a seat on a shared table.²³

¹⁷ Quote by Thompson, *English Landed Society*, p. 186.

¹⁸ For comment on modern-day debates about representation on magisterial Benches see ‘Equality laws should aid the working classes’, *Daily Telegraph*, 13/12/2013.

¹⁹ Times correspondent, Thomas Campbell Foster, after spending three months interviewing people in south west Wales after the Rebecca Riots, wrote, ‘It cannot be denied that people look upon the landlords, and the gentry and the magistrates as a class, with hatred and suspicion’. Quoted in D.J.V. Jones, *Rebecca’s Children* (Oxford, 1990), p. 96.

²⁰ See G.B.A. Finlayson, ‘The politics of municipal reform, 1835’, *English Historical Review*, 81 (1966), pp. 673–692.

²¹ Reflected in the adjective ‘county’ defined as ‘having social status or characteristics of county families: those having an ancestral seats in a particular county (‘County’ in *Concise Oxford Dictionary*, seventh edition, 1982).

²² Davis makes the point when discussing theft suffered by small traders that their wealth lay in movable property rather than land and investments. J. Davis, ‘Prosecutions and their context’ in D. Hay and F. Snyder (eds) *Policing and Prosecution in Britain, 1750-1850* (Oxford, 1980), p. 410.

²³ Griffiths describes how social status was an issue when selecting potential magistrates. W.P. Griffiths, *Power, Politics & County Government in Wales* (Llangefni, 2006), pp. 68-9. John Hammond wrote that manufacturers were ‘a class that many of them [country gentlemen] despised’. J.L. Hammond & B. Hammond, *The Town Labourer, 1760-1832*

In borough towns the mayor and immediate ex-mayor were *ex-officio* magistrates. This may well have led to conflicts of interest but, as a protracted case of encroachment in Welshpool shows, neither members of the town corporation nor magistrates seem to be in each others' pockets. These borough magistrates were justices who worked for their livings, and the encroachment case appears to show that fellow traders and ratepayers afforded the magistrates no more respect than they would to other tradesmen living in town. Samuel Powell J.P. was the proprietor of a flourishing currying/leather business near the centre of Welshpool. Some new buildings that he had put up were seen to be extending too far onto the pavement. The matter was discussed at Local Board meetings, headed by fellow magistrate and chairman of the Bench in his capacity as mayor, surgeon Edward Harrison. Powell put his side across determinedly in a letter to the clerk of the Board:

In reply to your communication from the Local Board with a copy of two resolutions passed at their last meeting, I have to state I do not recognize the authority of the Board to interfere with any erection of mine upon private property. As regards the surface water, I do not consider myself liable to convey the same into the sewer at the direction of the Board.

S. Powell.²⁴

The last report on this business appeared in the newspaper at the end of March, and the affair seems to have petered out as Powell agreed to address the problem.²⁵ Powell was answerable to his fellow townsmen, unlike John Winder at the Vaynor Estate who brought forward the wall of his mansion by several feet without any outside interference,²⁶ or the first Lord Sudeley who extended the mansion at Gregynog to

(London, 1917), p. 64. See C.H.E. Zangerl, 'The social composition of the county magistracy in England and Wales, 1831-1887', *Journal of British Studies*, 11 (1971), p. 115 for a useful table showing how the composition of the county and borough Benches changed between 1841 and 1887. The etymology of the word 'gentleman' is interesting. The Latin term for 'born', *genitus*, passed into Old French as 'gent', gaining the additional sense of 'being of noble birth'. When the word was taken up in English as 'gentle', it described someone of good breeding, as 'gentleman' was originally a man entitled to bear arms. Such 'gentle' people were expected to have equally graceful manners, and the adjective soon came to mean 'delicate'. *O.E.D.*

²⁴ *N.W.E.*, 2/3/1869. Details about the encroachment affair began in 5 January 1869.

²⁵ *N.W.E.*, 30/3/1869.

²⁶ Haslam, *The Buildings of Wales*, p. 79

suit his own wishes.²⁷ Powell, like all people inhabiting town houses, had to abide by the provisions of the 1835 Highways Act, which allowed for urban authorities to fine a person for bringing forward the frontage of a house or for not providing adequate sewerage.²⁸ The borough magistrates' activities had a visibility that was not suffered by the landed gentry on their estates, and were bounded in a way that the country gentlemen were not. We will see in forthcoming investigations of court cases that being accustomed to doing as they pleased affected old-gentry magistrates' behaviour on the Bench.

The county Bench at Quarter Sessions

The Bench, once restricted to the greater county gentry, was by the middle of the nineteenth century displaying the mix of lesser gentry, clergy and working justices described earlier. Near the end of the previous century, average attendance per session was 4.4; six or seven justices were regular attendees and another six attended once a year.²⁹ Now the total number of justices in attendance on day one at the first Sessions of 1869 was 15 including the Earl of Powis and Sir Charles Watkin Williams Wynn (a baronet, and related to the earl by marriage) who were chairman and deputy chairman respectively. Criminal proceedings began at 10 a.m. on day two, and the previous century's trend of reduced numbers of magistrates is visible: seven of the previous day's attendees did not show, although three new faces appeared. Overall, the number was down by four to only 17% of the total number of justices at that time. Study of the composition of the Bench across the decade shows several regular and frequent attendees at Quarter Sessions – Capt. Crewe-Reade, Arthur Humphrey's Owen, Capt. Mytton, John Bayard and Richard Woosnam for example. The same men were consistent Petty Sessions attendees. The Earl of Powis, as chairman of the Bench, was also a frequent attendee at Quarter Sessions, but often only on day one, and rarely during the summer months.³⁰ Some of the Anglican clergy magistrates were reliable

²⁷ W. S. Owen, 'A Parochial History of Tregynon', *Mont. Colls*, 30 (1898), pp. 9-11.

²⁸ See Highways Act 1835 at <http://www.legislation.gov.uk> (viewed 5/5/2011).

²⁹ M. Humphreys, *The Crisis of Community* (Cardiff, 1996), p.204.

³⁰ This matches Jones's finding from south-west Wales in the 1840s: 'proceedings were dominated by up to a score of well-known figures'. Jones, *Rebecca's Children*, p. 89.

in their attendance,³¹ but there may have been a feeling of discrimination among the general population as to the absence of Nonconformist ministers on the Bench. Dissent is said to have been the first major challenge to established authority, and was a factor in the Rebecca uprisings a generation earlier.³² Perhaps, when the Lord Lieutenant made suggestions for appointments to the magistracy, he bore this in mind and tried to suppress Nonconformist contributions.³³ He may also have remembered the fiasco of 1838 when the magistrates of Bala in neighbouring Denbighshire refused to sit with a former shopkeeper and Methodist who had been appointed to the Bench.³⁴ However, the absence of such men on the Bench could have been because these men did not fulfil the property requirements, or that they did not want to be associated with the legal system.³⁵

The issue of Nonconformist ministers being restricted in public roles by their financial status is illustrated by a lively debate that took place in 1871, over the Montgomeryshire Infirmary in Newtown, which provided medical care for the poor of the county and was governed by a board elected from its patrons. Individuals who donated were named in a list that was published and which show that the amount donated varied from £200 given by Lord Sudeley of Gregynog, to £20 from Rev. Herbert and £5 given by Sir Thomas Gibbons Frost.³⁶ Some Anglican churches and Nonconformist chapel congregations also gave collective amounts. For example, Tregynon Church gave £1 10s. and Newtown Baptists gave £4 1s. Many ministers of religion did not give donations personally and therefore were ineligible to sit on the board. Some board members argued that such men should be eligible by virtue of

³¹ See Zangerl, 'Social Composition', pp. 118-119 for a comprehensive review of the appointment of clerical justices.

³² Jones, *Rebecca's Children*, p. 85.

³³ Griffith explains how in mid nineteenth-century Anglesey, 'the burgeoning Nonconformist culture [...] set itself apart from an anglicized landed elite', and that the majority of the magistracy were increasingly unresponsive to Nonconformist agitation. W.P. Griffith, *Power, Politics and County Government*, p. 75-76. Humphreys discusses political machinations that took place around the appointment of magistrates in the eighteenth century but does not consider religious differences. Humphreys, *The Crisis of Community*, pp. 201-203.

³⁴ Zangerl quoting Webb in 'Social Composition', p. 120.

³⁵ There was a history of dissenters being tried and sent to prison, see R. Williams, 'Montgomeryshire Nonconformity: extracts from gaol files, with notes', *Mont. Colls*, 27 (1893), pp. 55-76.

³⁶ *N.W.E.*, 31/1/1871 and 12/10/1875.

representing sections of the community. The *Montgomeryshire Express* reported the debate:

Mr Hall [a Newtown physician]: Some ministers are paid very well, and others are paid very badly; and yet they are equally representatives of the public. And if they were made *ex-officio* members, they would be equal.

Mr Blythe [flannel merchant, Anglican, staunch Conservative, later J.P.]³⁷: But this is a matter of pounds, shillings and pence.

Mr Hall: Not at all. There are many ministers who are representative who have not pounds, shillings and pence to give.

Mr Blythe: But this is a private affair.

Mr Hall: It is a public affair to everyone who is concerned with it. It is for the public benefit and every minister who makes a collection in his own chapel and promotes the interests of this institution is entitled to act as an *ex-officio* member.

Mr Blythe: They do not rest on these grounds. The point has been discussed and it was agreed that every member must be a subscriber.

Mr Hall: I perfectly disagree with you. I think that representative men should be *ex-officio* members of the committee.

Mr Blythe: I beg to differ with you.

Chairman [Lord Sudeley]: The rule states positively that the managing committee should be composed of 24 members [i.e. those who have made a donation] and you are now nominating gentlemen [i.e. non-donators] to serve on that committee, and if you make a number of *ex-officio* members you vitiate your rule altogether.

Mr Hall: The only reply that I can offer is that I think it is making matters sectarian. You place a certain number of ministers who belong to a certain church on the committee, and you exclude all others because there are a certain class of ministers who really cannot pay the subscription you require.

Rev. Thompson [Anglican minister]: According to rule 4, the only persons eligible to act on the committee are members and that is the only reason why dissenting ministers have not been appointed. I am sure I should have no objection whatever for a dissenting minister to act with me upon the committee.³⁸

³⁷ Obituary of Joseph Henry Blythe, *M.E.*, 13/9/1892.

³⁸ *N.W.E.*, 31/1/1871.

This discussion, about eligibility criteria and the nature of representation, inevitably raised issues about religious diversity on decision-making bodies. The Rev. Thompson wanted to abide by the rules but seemed open to the idea of dissenting ministers in general. Mr Blythe was adamant that the rules should be followed, and inspection of his obituary show that he was a ‘Conservative of the old school’ and a committed Anglican.³⁹ Such debates as illustrated above were common in Wales during this period, and may have arisen over the magistracy. None was found during the course of this study, although the infirmity debate was not the only indication of prejudice against dissenters. For example, George Hammond Whalley, one of the Montgomeryshire Bench, was a staunch anti-Catholic and, as M.P. for Peterborough, made tirades against members of the Roman church, particularly against the Pope.⁴⁰

Attendance at Sessions

The location of magistrates’ residences, where known, is shown in Figure 3.1(a).⁴¹ Travel to Sessions appears to have been problematic for magistrates living a distance from the court. At the Hilary Sessions in 1869,⁴² Major John Pryce, on behalf of the Earl Vane who was not present, requested that the timing of the first day be changed. The Earl was to become the fifth Marquess of Londonderry and his wife’s family owned Plas Machynlleth at the western extremity of the county, where the couple lived. His message was that travel from the far reaches of the county was too lengthy and meant that those magistrates did not arrive back home until the evening.⁴³ The chairman of Sessions, the Earl of Powis, objected at length to any idea of change, but nevertheless the timing of some matters were altered to be more accommodating. At the midsummer Sessions of 1869, Lord Vane again sent a representative, Charles Thruston J.P., to ask that a new meeting place for justices to be erected in Machynlleth.⁴⁴ Lord Vane eventually attended Sessions in October 1870, twenty months after court timings were changed at his request. Figure 3.1(b) and (c) show

³⁹ ‘Obituary of J. Blythe’, *M.E.*, 13/9/1892.

⁴⁰ D.N.B.

⁴¹ Montgomeryshire residences (or residences in other counties in locations close to the Montgomeryshire border) were known for 80% of the magistrates.

⁴² Alternatively known as Epiphany Quarter Sessions.

⁴³ *N.W.E.*, 12/1/1869.

⁴⁴ *N.W.E.*, 6/7/69.

residences of magistrates attending day 1 of the various Quarter Sessions during sample years of 1869 and 1870 respectively. The change of timings seems hardly to have improved attendance; magistrates from the Llanidloes area in particular are noticeable by their absence.⁴⁵ Some magistrates were living miles away from their Montgomeryshire houses, away on holiday, visiting people or receiving visitors. Hunting also occupied their time during winter months⁴⁶ but despite the attractions of the hunting field, attendance at Michaelmas and Hilary Quarter Sessions was higher than at other times. Figure 3.1(d) shows attendances at the various sessions held during sample years of 1869 and 1870. It has been noted by Peter King that sometimes attendance levels increased when there were particular political anxieties or worries about law and order.⁴⁷ It is during the winter months that poaching offences would be most likely to occur, as well as burglaries and assaults under the cover of darkness. This might help to explain the increased attendance at this time. A few of the magistrates also sat on the Shropshire Bench because of their ownership of property in that county, showing either that they were adamant about law and order, concerned about offending, or simply enjoyed the occasions. There was also the opportunity of being seen with the nobility, as the Earl of Bradford sat regularly in Shrewsbury.⁴⁸

⁴⁵ King describes how Sessions being held at Chelmsford discouraged attendance by magistrates from outlying areas, and how in 1872 only 40% attended even one sitting. King, *Crime, Justice and Discretion in England, 1740-1820* (Oxford, 2000), p. 111.

⁴⁶ In 1784 the author of *The Magistrate's Assistant* wrote of the difficulties of persuading gentlemen to dedicate some portion of their leisure hours to the preservation of the peace', quoted in King, *Crime, Justice and Discretion*, p. 112.

⁴⁷ King, *Crime, Justice and Discretion*, p. 111.

⁴⁸ Shropshire Archives, *Shropshire Quarter Session Order Book, 1840-89* shows the Earl's attendances. As an example of the sense of elevation gained after meeting aristocracy see M.N. Cohen, *Lewis Carroll: A Biography* (London, 1995), p. 509. For comment on Victorian social climbing see Cohen, *Lewis Carroll*, pp. 512-3.

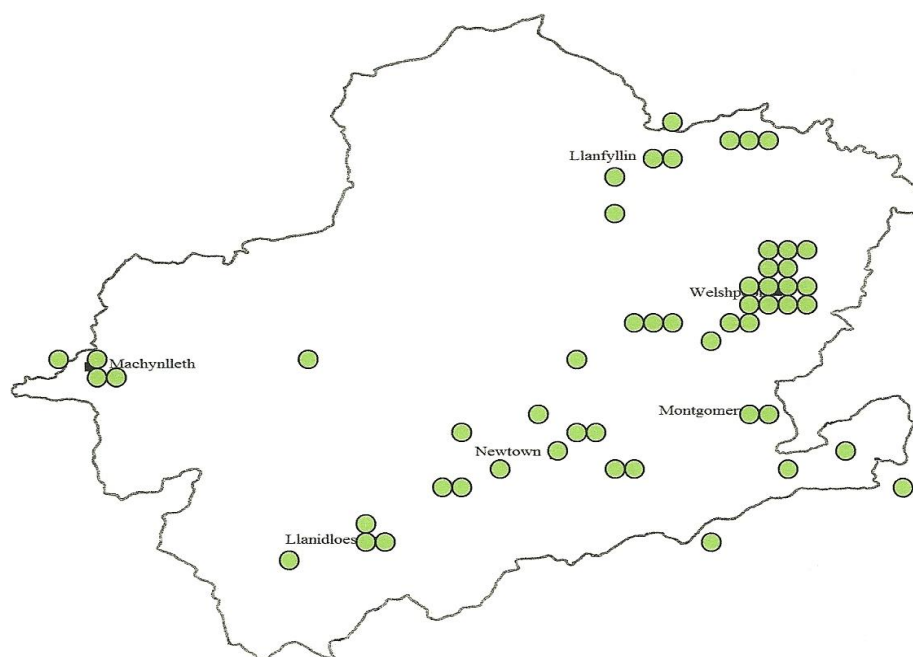


Figure 3.1 (a): Known residence of magistrates

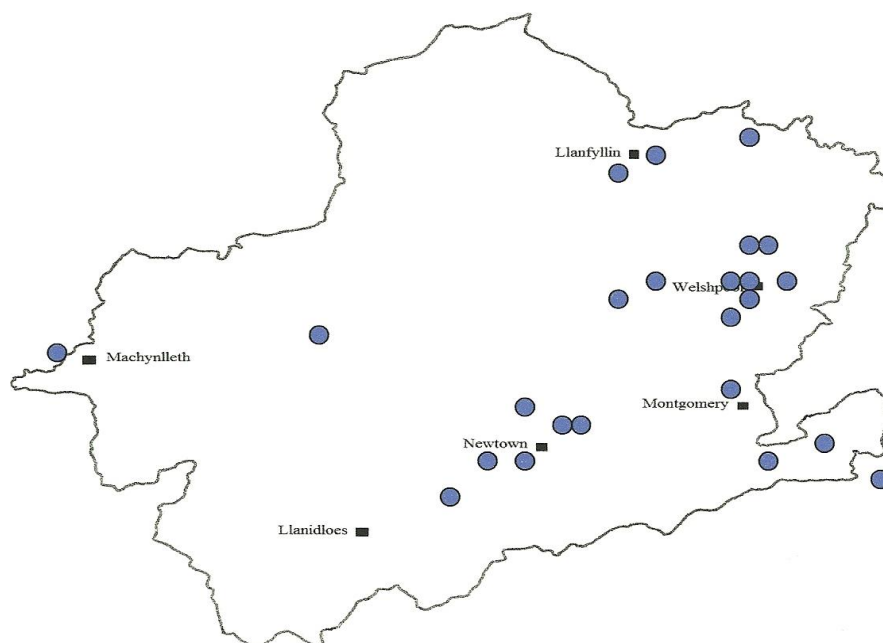


Figure 3.1 (b): Attendees at Quarter Sessions, 1869

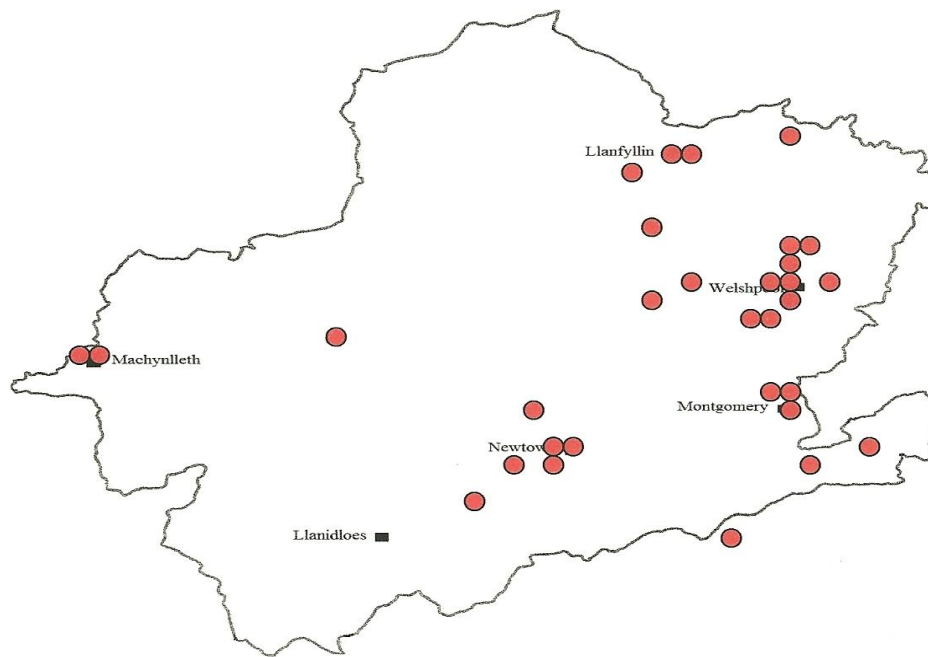


Figure 3.1 (c): Attendees at Quarter Sessions, 1870

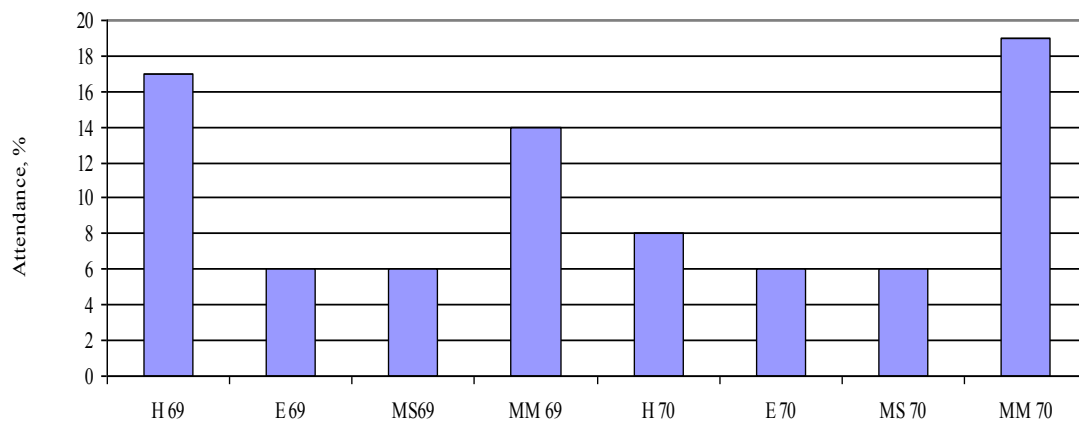


Figure 3.1(d): Attendance at criminal proceedings, 1869 and 1870

It is noticeable on the map of residences that most of them followed the line of the River Severn, and that large parts of the county, particularly the centre and north, were poorly served by resident magistrates. The same situation existed in Anglesey and was said to restrict the justice available to people living in those areas as there

was less opportunity for individuals or policemen to apply for warrants.⁴⁹ Figure 3.2 shows a graph of total magisterial attendances at the Montgomeryshire Quarter Sessions across the decade, and a key feature is that the number rose from around 75 during the first few years to over 100, an increase of about 30%, in 1873. The figure dropped back subsequently. The reason for the sudden improvement in attendance is unclear. There may have been any number of reasons, but it is possible that a directive had been issued, perhaps by the Lord Chancellor, or Lord Sudeley as Lord Lieutenant, or the Earl of Powys as Chairman of the Bench, to increase attendance.⁵⁰ Figure 3.3 show the total number of attendances of justices who sat during the whole of the decade studied.

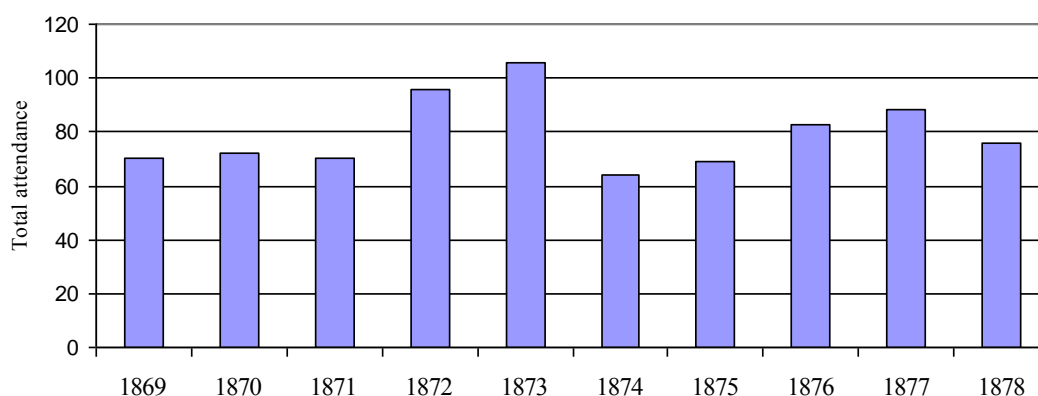


Figure 3.2: Total attendances at Quarter Sessions, 1869-78

⁴⁹ Griffiths, *Power, Politics*, pp. 63-64. See also Griffiths, pp. 57-71 for a description and discussion on the activeness, or otherwise, of Anglesey justices which shows the same pattern found in the present study.

⁵⁰ For an overview of the role of the Lord Chancellor see J. Cannon (ed.) *The Oxford Companion to British History* (1997, 2002), p. 593. See also Griffiths, *Power, Politics* p. 67 for an example of the Lord Chancellor's influence on the county Bench.

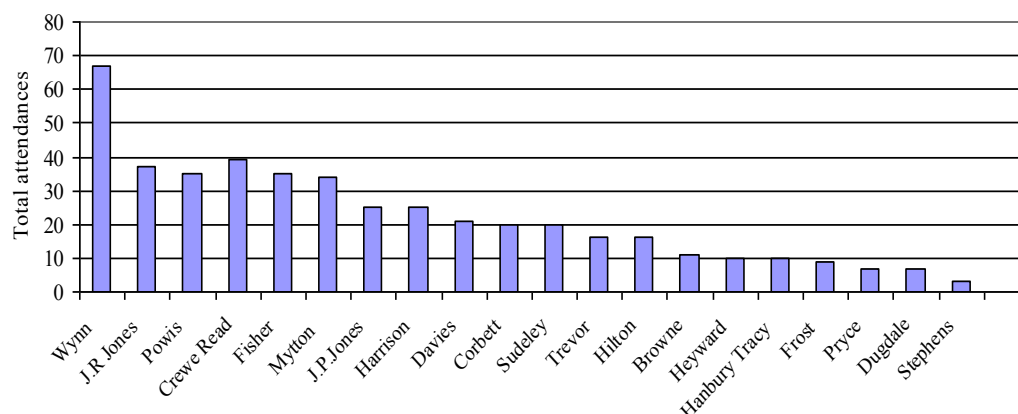


Figure 3.3: Attendances at Quarter Sessions 1869-78

Other county positions.⁵¹

Possibly the most prestigious role was that of Lord Lieutenant, the first Montgomeryshire Lieutenant being appointed in 1761.⁵² The Lord Lieutenant was the sovereign's representative in the county, and played a significant role in the legal system, suggesting persons for the Bench, and appointing the clerk to the Quarter Sessions.⁵³ Table 3.1 gives the names of those Lieutenants who served during the nineteenth century, and has the appearance of a 'closed shop', accessible only to the aristocracy. It was also a 'job for life' or, at least, for as long as the man held his aristocratic title.⁵⁴ It is notable that former industrialist, the first Baron Sudeley, was eligible for this role only after he changed class by being raised to the peerage.⁵⁵

⁵¹ Note Francis Dodsworth's comments about the hierarchy present in local government in F. Dodsworth, 'Liberty and Order: Civil Government and the Common Good in Eighteenth-Century England,' *C.R.E.S.C. Working Paper Series*, 21 (2006), p.5.

⁵² J.D.K. Lloyd, 'The lieutenants of Montgomeryshire', *Mont. Colls*, 63 (1973), pp. 114-118.

⁵³ *The Oxford Companion to British History*, p. 595-6; D. Phillips, 'The Black Country magistracy, 1835-60', *Midland History*, 3 (1976), p. 165.

⁵⁴ Lloyd, 'The lieutenants', p. 117. Zangerl notes that 90% of Lords Lieutenant in 1875 were aristocrats. Zangerl, 'Social Composition', p. 116.

⁵⁵ 'Charles Hanbury-Tracy, 1st Baron Sudely' viewed at http://en.wikipedia.org/wiki/Charles_Hanbury-Tracy,_1st_Baron_Sudeley (5/5/2011); see also Lord Sudeley, 'Gregynog before 1900', *Mont. Colls*, 62 (1972), pp. 116-182.

Name	Title	Dates of appointment
Edward Clive	1 st Earl of Powis	1804-1830
Edward Herbert	2 nd Earl of Powis	1830-1848
Charles Hanbury-Tracy	1 st Baron Sudeley	1848-1858
Thomas Hanbury-Tracy	2 nd Baron Sudeley	1858-1863
Charles Hanbury-Tracy	3 rd Baron Sudeley	1863-1877
Edward James Herbert	3 rd Earl of Powis	1877-1891
Sir Herbert Williams Wynn	7 th Baronet	1891-1944

Table 3.1 Lords Lieutenants of Montgomeryshire

Another prestigious role in the county was that of High Sheriff, not least because of the large amount of ceremony associated with it. The man appointed also had the task of selecting jury members. It was a Crown appointment but did not have the same degree of exclusivity as the Lord Lieutenant and was more accessible to the new gentry.⁵⁶ Table 3.2 shows a list of High Sheriffs from 1860 to 1881. Study of the censuses from this period shows that these men all occupied substantial properties and kept a number of servants. Several employed a live-in coachman or groom, and none of these sheriffs was a town-based magistrate, but several of them were in, or formerly in, trade. It has been said that the office of High Sheriff was only really attractive to the relative newcomers of landed society, who saw it as the first step towards social and political acceptance.⁵⁷

⁵⁶ Beatrice and Sidney Webb noted that the office was one of 'pure social dignity', S. Webb & B. Webb, *English Local Government from the Revolution to the Municipal Corporations Act: The Parish and the County* (London, 1963), pp. 286-7.

⁵⁷ Humphreys quoting J.V. Beckett in *The Crisis of Community*, p. 205. See Jones, 'Missing out', p. 107 for a succinct description of the newly-rich man's move to the country and subsequent gentrification.

Year	Name	Occupation
1860	<i>William Curling</i>	<i>Landed proprietor</i>
1861	<i>John Heyward Heyward</i>	<i>Farmer & landowner</i>
1862	John Lomax	Landowner
1863	<i>John Dugdale</i>	<i>Landowner, former cotton merchant</i>
1864	Major-General William Gold	Landowner, formerly army
1865	<i>Robert Simcocks Perrott</i>	<i>Farmer & landowner</i>
1866	<i>Edwin Hilton</i>	<i>Landed proprietor, formerly silk merchant</i>
1867	<i>Major Joseph Davies</i>	<i>Formerly army</i>
1868	<i>William Fisher</i>	<i>Landed proprietor, formerly druggist</i>
1869	<i>John Pryce Davies</i>	<i>Landowner</i>
1870	<i>Captain Offley M. Crewe-Read</i>	<i>Landowner, formerly Royal Navy</i>
1871	<i>John Robinson Jones</i>	<i>Landowner</i>
1872	Henry B.W. Williams-Wynn ⁵⁸	Not known. Related to both chairman and deputy chairman of the Bench
1873	<i>Devereux Herbert Mytton</i>	<i>Landowner formerly Army</i>
1874	Thomas Openshaw Lomax	Landowner
1875	<i>Richard Edward Jones</i>	<i>Landowner</i>
1876	<i>Richard John Edmunds</i>	<i>Landowner</i>
1877	<i>William Walton</i>	<i>Not known</i>
1878	<i>Richard Woosnam</i>	<i>Formerly surgeon in India</i>
1879	<i>Col. George Edward Herbert</i>	<i>Formerly Army</i>
1880	<i>Robert John Harrison</i>	<i>Anglican clergyman</i>
1881	<i>Thomas Gibbons Frost</i>	<i>Formerly Cheshire corn miller; owned land in Montgomeryshire</i>

Table 3.2: List of High Sheriffs. The names in italics were Montgomeryshire magistrates during the period under study.⁵⁹

The man selected was perhaps most visible when the Assizes were held, as his duties included receiving the judge, accompanying him to the pre-Assize church service, and sitting with him during proceedings. The whole event was meant to be impressive.⁶⁰ One of the requirements of the role was to escort the judge to his lodgings and to court in his own coach. This, therefore, meant that the position of High Sheriff was restricted to those men who kept such a vehicle. The job of under-sheriff carried with it similar pomp. This man was charged with the administrative tasks necessary for the Assizes, and court reports show that during the 1870s the

⁵⁸ A magistrate in Berkshire, Oxfordshire and Shropshire. Usual residence was Knightsbridge

⁵⁹ http://en.wikipedia.org/wiki/High_Sheriff_of_Montgomeryshire (viewed 5/09/12).

⁶⁰ See Bentley, *English Criminal Justice*, pp. 51-2 for a description of events, and pp. 81-2 for a description of the role.

appointee was county coroner Robert Harrison, and later his son, solicitor George Harrison. So a member of the new-gentry class knew that he would never be the Lieutenant but he might become the sheriff, providing he occupied a country house and owned a coach.⁶¹ Without a coach he may have become under sheriff. There were three Quarter Session committees that met four times per year and provided reports to the court prior to the criminal cases being heard. These were the constabulary, finance and prison-visiting committees, and a small number of justices sat on each. Study of the proceedings of the groups shows that it was the same handful of men every time.⁶²

Petty Sessions Benches

Counties were divided into Petty Sessional divisions, with justices assigned to particular divisions. A map of these divisions is shown in Figure 3.4. However, when court cases were reported in the local newspaper, they were usually given the name of the largest settlement in the area (Table 3.3).⁶³

⁶¹ See A. Briggs, 'The language of class in early nineteenth-century England', in A. Briggs and J. Saville (eds), *Essays in Labour History in memory of G.D.H. Cole* (London, 1967), pp. 44-45 for discussion on movement between social groups. Briggs asserts that 'the most successful of them [middling sorts] were easily absorbed into the gentry'. For interesting comment on Montgomeryshire gentry see M. Humphreys, 'Gentry' in Jenkins, *Historical Atlas*, pp. 58-60.

⁶² See any Quarter Sessions coverage, *N.W.E.* and *M.E.* 1869-78.

⁶³ There was a similarity with the names and areas of the administrative Hundreds, see E. R. Morris, 'The Hundreds', in Jenkins, *Historical Atlas*, pp. 65-6. The map shown in Figure 3.4 is dated 1938-53 and the boundaries may have been different to those present in the 1870s.

Petty Sessional division	Usual name used in newspaper reporting
Llanfyllin	Llanfyllin
Deytheur	Welshpool
Pool Upper	Welshpool
Pool Lower	Welshpool
Caurse	Welshpool
Newtown Upper	Newtown
Newtown Lower	Newtown
Mathrafal	Llanfair Caereinion (or Llanfair)
Machynlleth	Machynlleth
Llanidloes Upper	Llanidloes
Llanidloes Lower	Llanidloes
Montgomery Upper	Montgomery
Montgomery Lower	Kerry

Table 3.3: Names of Petty Sessional divisions as used in newspaper reporting

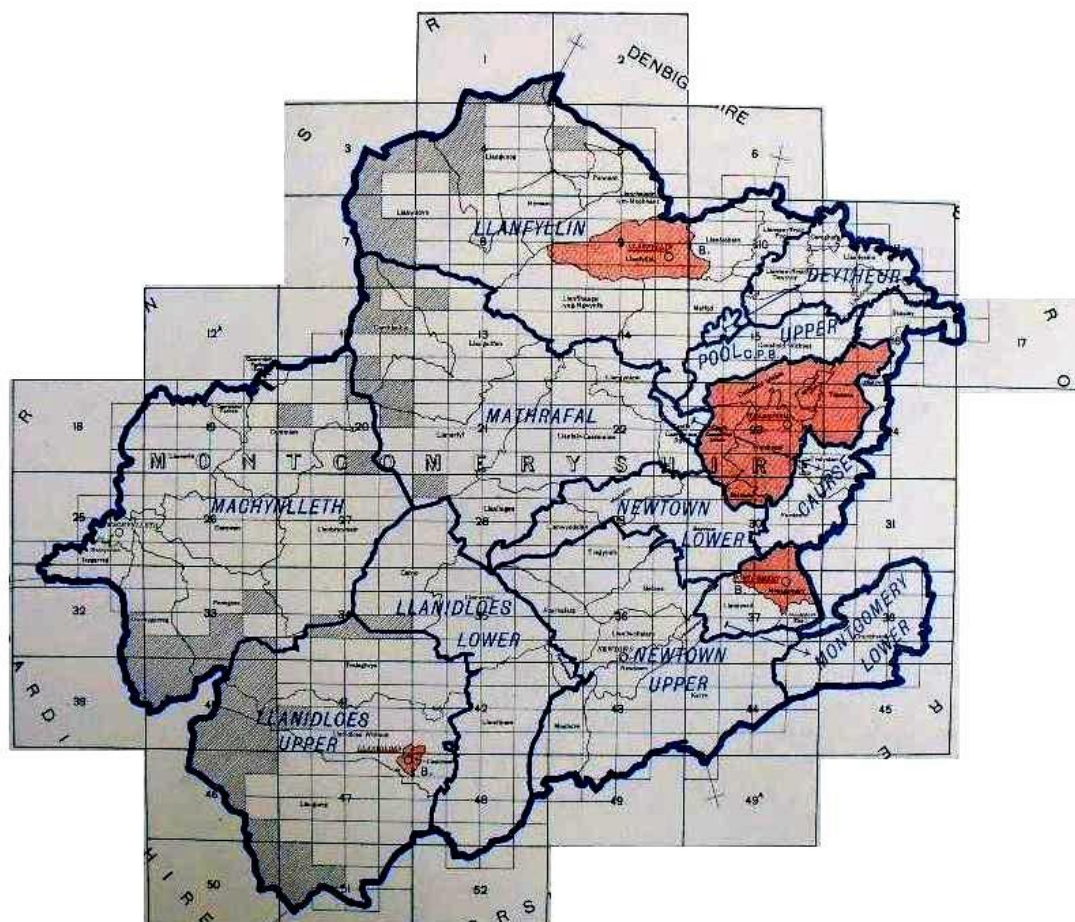


Figure 3.4: Map of Montgomeryshire Petty Sessional divisions (London Metropolitan Archives, ACC/2425/102)

The courts were usually held at a regular time and place, with usually two magistrates in attendance, and could be in a justice's own home. Occasionally, a so-called 'Special Sessions' could be convened when an out of the ordinary offence had occurred.⁶⁴ There were also the so-called 'police courts' at which police officers prosecuted the cases.⁶⁵ First appearing in the fifteenth century, their growing existence reflected the increase in local business and appreciation by central government of the

⁶⁴ See for example *M.E.*, 4/9/1877 (Newtown Special Sessions).

⁶⁵ C. Emsley, *Crime and Society in England*, p. 195; B. Godfrey and P. Lawrence, *Crime and Justice*, pp. 53. The provincial police courts were slightly different in operation and organisation, see J. Davis, 'A poor man's system of justice: the London police courts in the second half of the nineteenth century', *Historical Journal*, 27 (1984).

importance of local knowledge.⁶⁶ During Tudor times they had been notable for dealing with vagrancy,⁶⁷ and the association of Petty Sessions with the ‘lower sorts’ still existed as the courts dealt with lesser offences such as drunkenness, low-value thefts and trespass.⁶⁸ There is a vivid picture of a nineteenth-century Petty Sessions in a country town written by gamekeeper Richard Jefferies, and includes this description:

Some of the loafers touch their hats as a gentleman – a magistrate – rides up the street. But although the church clock is striking the hour fixed for the sessions to begin he does not come over to the hall upon dismounting at the inn yard but quietly strolls away to transact some business with the wine merchant or the saddler... Up in the justice room the seedy clerk’s clerk⁶⁹ is leaning out of the window and conversing with a man below who has come along with a barrow load of vegetables from his allotment... At last there is a slight stir as a group is seen to emerge from the inn and the magistrates take their seats... Half a dozen summonses for non-payment of rates come first; then a dispute between a farmer and his man. After this the young mother swears her child, and indeed there is some very hard swearing here on both sides.⁷⁰

The following is a description of a petty court in London:

The crowd is worth studying. There are a few well-dressed people mingling – and looking as if they were somewhat ashamed of themselves for the condescension – in the cluster of raged witnesses and squalid women with dirty-faced babies at their breast. ... Here and there a black eye or a plastered face, perhaps, and everywhere an aspect of poverty, squalor and drink, but little relieved by the sprinkling of professional men and respectable trades people and police.⁷¹

⁶⁶ E. Moir, *The Justice of the Peace* (Harmondsworth, 1969) p. 44; J. Cannon (ed.) *The Oxford Companion to British History*, p.746. According to Godfrey and Lawrence in *Crime and Justice*, p. 53, most defendants faced one magistrate or however many troubled to turn up.

⁶⁷ Moir, *Justice of the Peace*, p. 65.

⁶⁸ Preamble to ‘Flintshire Petty Sessions records’ viewed at <http://www.archiveswales.org.uk> (13/1/2011).

⁶⁹ The clerk himself had the services of a clerk.

⁷⁰ R. Jefferies, *The Gamekeeper at Home and The Amateur Poacher* (Oxford, 1978), pp. 280-287.

⁷¹ Davis, ‘A poor man’s system of justice’, pp. 316-7.

The cases appearing at Montgomeryshire Petty Sessions were similarly those involving tramps, labourers, apprentices, farmers, shopkeepers and craftsmen, often drunk and often having been in fights. Magistrates at Petty Sessions also heard cases that were dealt with ultimately at Quarter Sessions or Assizes. King explains: ‘They alone conducted preliminary hearings in felony cases and decided whether the accused should be released, dealt with informally, imprisoned for further examination, bailed or committed to gaol to await jury trial in the major courts.’⁷²

Backgrounds of petty justices

Table 3.4 shows information, where known, about the justices who sat on the Petty Sessional Benches at Newtown and Welshpool. It can be seen that the Benches were dominated by the new gentry. Lords Powis, Vane and Sudeley, and baronet Sir Watkin Williams-Wynn, never sat in the summary courts. All but two of those listed in Table 3.4 were frequent Petty Sessions attenders as well as being Quarter Sessions stalwarts.⁷³

Name	Petty Sessional division	Place of residence	Any known occupation
Canon John Herbert	Newtown/Berriew	Country house	Anglican clergyman, with noble family connections
Crew-Reade, Offley	Newtown	Country house	Royal Navy commander (rtd), very distantly related to royalty
Davies, John Pryce	Newtown	Country house	Landowner
Jones, Richard	Newtown	Country house	Landowner.
Lloyd, John	Newtown	Country rectory	Rector of Llanemerwig, near Newtown

⁷² P. King, ‘The summary courts and social relations in eighteenth-century England’, *Past and Present*, 183(2004), pp. 125–172. King also explains how a range of other administrative tasks were performed at Petty Sessions including bastardy, settlement examinations, contracts and the swearing of oaths.

⁷³ Douglas Hay argues that the justices’ work at Sessions helped to show their superiority in moral and religious terms by their apparent concern for humanity, and an image that ‘ensured the continuation of traditional attitudes and ideas and reinforced the dominance of the establishment’. D. Hay quoted in H. Johnston, ‘Shropshire magistracy’, p.78.

Stephens, John	Newtown	House in town	Physician
Williams, John Buckley	Newtown	Country house	Farmer and landowner
Drew, John Pryce	Newtown/Berriew	House on edge of town	Anglican clergyman, landowner, formerly army.
Barrett, Thomas	Welshpool	House in town	Surgeon
Bowen, Thomas	Welshpool	House in town	Banker
Corrie, John Davies	Welshpool	Country house	Landed proprietor/farmer, previously London barrister
Fisher, William	Welshpool	Country house	Landed proprietor, previously baker and druggist in Liverpool
Harrison, Edward T. D.	Welshpool	House in town	Surgeon, noble family connections
Morris, Thomas	Welshpool	House in town	Draper, later farmer then auctioneer
Parker, Griffith.	Welshpool	House on edge of town	Wine merchant
Parker, W.T.	Welshpool	House in town	Not known but son of previous so possibly wine merchant
Powell, Samuel	Welshpool	House in town	Currier
Harrison, Robert J.	Welshpool	Country house	Clerk in holy orders, noble family connections

Table 3.4: Magistrates sitting at Newtown, and Welshpool, 1869-70

It is apparent that most of these magistrates lived and worked among ordinary, working people at some points during their lives. Particularly noticeable is that the borough magistrates of Welshpool mostly lived in the centre of town where they daily came into contact with the sorts of people who appeared before them in court, and where they would have been aware of street disturbances. Whereas an aristocratic justice could issue a warrant for serving on a tenant he had never seen, the borough magistrate would often sign warrants for serving on regular customers. Town-based justices with these backgrounds were in a better position to judge the cases in court, but others on the Bench would have considered them vulgar. Living in this close

proximity to many defendants and witnesses would leave the court proceedings open to accusations of unfairness, as in a Glamorganshire case where an ironmaster magistrate was said to have used the law to subjugate his employees.⁷⁴ It is noticeable that many of the members of the Montgomeryshire Bench never attended court, either Petty or Quarter Sessions as shown in Figure 3.1(d). One wonders why they joined. One possibility is that membership of the Bench provided themselves and family members with access to social occasions which helped to further business interests or to find marriage partners for daughters. Pierre Bourdieu argues that the social capital possessed by an individual depends on the network of connections he can effectively mobilize and, notably, on the economic, social and symbolic capital possessed by the other members of his network.⁷⁵ This way of thinking illuminates the magisterial networks and conduct. A hierarchy thus existed in the magistracy, and men were marked out by their places of abode, title, source of income and family connections. Ronald Neale constructed a model to describe the social stratification of (or hierarchy within) society at large,⁷⁶ and a similar model can be made for the Bench (Figure 3.5). Movement between strata was possible by marriage, knighthood or elevation to the peerage.⁷⁷ Using this, the different layers within the Bench is obvious, and particularly remarkable is the differentiation between men at the extreme ends.

⁷⁴ Hammond, *The Town Worker*, p. 65.

⁷⁵ P. Bourdieu, 'The forms of capital' in I. Szeman and T. Kaposy (eds), *Cultural Theory: An Anthology* (Oxford, 2011), p. 86.

⁷⁶ R.S Neale, 'Class and class consciousness in early nineteenth-century England: three classes or five?', *Victorian Studies*, 12 (1968), p. 5.

⁷⁷ With reference to Figure 3.5, E.D.T. Harrison married John Naylor's daughter; Sir Thomas Gibbons Frost was knighted for his work in the community of Chester and his daughter married into Irish nobility.

<p>Aristocratic, large landholdings, authoritarian, exclusive, liveried servants, open to high county office <i>e.g. Earl of Powys, Sir Watkin Williams Wynn, Lord Sudeley</i></p>	<p>Aristocratic connections, old family, large to medium landholdings, authoritarian, semi-exclusive, many/several servants, open to some county offices <i>e.g. Capt. Mytton related to Viscount Hereford; Capt. Crewe-Read, descended from Plantagenets; R.D. Pryce, descendant of medieval king of Powys</i></p>	<p>Current/former industrialists, bankers or merchants, great wealth and property, country estate, authoritarian, many servants, open to some county offices <i>e.g. Richard Gough, interests in iron works; Sir Thomas Gibbons Frost, miller; Joseph Blythe, flannel merchant; Phillip Wright, ironmaster, John Naylor, former banker</i></p>	<p>Formerly in trade or armed forces, medium to small landholdings in country, authoritarian, several servants, open to some county offices <i>e.g. William Fisher formerly druggist; Charles Hunter formerly army officer</i></p>	<p>Professionals or clerics with noble or landed connections, open to some county offices <i>e.g. E.D.T. Harrison surgeon related to Viscount Hereford; R.J. More, lawyer, descended from lords of the manor of More in Shropshire; Rev. William Botfield, inherited estate; Canon Herbert, related to Earl of Powis</i></p>	<p>Currently in trade or professions, town house, few servants, open to low county office <i>e.g. Thomas Barrett, banker; Samuel Powell, currier; Thomas Morris, mercer and auctioneer</i></p>
High	Low				

Figure 3.5: Social stratification of the Montgomeryshire Bench

Richard Moore-Colyer argues that patronage in its various forms was viewed as an essential duty of a gentleman and that motives included ignoring the root causes of poverty and ‘the compelling need to maintain social status’.⁷⁸ Motivation for joining the judiciary may well have included an element of striving for social prestige, but within the Bench each man knew his place.

Focus now turns to a different section within the legal system.

The legal system seen on the streets: development of the police force

Most of the people who appeared in court already had some experience of the system of law enforcement by way of the police, who were answerable to the magistrates. Like much of Great Britain, many Welsh boroughs and counties established paid police forces in the first half of the nineteenth century. Table 3.5 shows dates of formation.⁷⁹

Formation	Force
? Until 1840	Llanidloes Borough
? Until 1857	Welshpool Borough
1829 - 1833	Brecon Borough, Carmarthen Borough, Haverfordwest Borough
1837 - 1840	Aberystwyth Borough, Tenby Borough, Montgomeryshire, Denbighshire
1841 - 1844	Glamorganshire, Carmarthenshire, Cardiganshire
1857	Breconshire, Radnorshire, Merionethshire, Caernarfonshire, Flintshire, Anglesey

Table 3.5: Dates of formation of police forces in Wales

Montgomeryshire magistrates had decided to adopt the terms of Home Secretary John Russell’s 1839 County Police Act soon after it became law. This was influenced

⁷⁸ R. Moore-Colyer, ‘Gentlemen, horses and the turf in nineteenth-century Wales’, *Welsh History Review*, 16 (1992), p. 60.

⁷⁹ Information in Table 3.1 was obtained from C. Griffiths, *The Police Forces of Mid and West Wales, 1829-1974* (Llandybie, 2004) and H.K. Birch, *The History of Policing in North Wales* (Pwllheli, 2008) pp. 85-90. Jones mentions a borough police force in Montgomery in the 1830s (Jones, *Crime in Wales*, p. 204). The five borough towns must have had police forces following the Municipal Corporations Act of 1835. Newtown had lost its borough status in the seventeenth century and therefore did not need to form a force. The Welshpool force remained separate from the county force until 1857 or 58 and was able, therefore, to concentrate on local concerns until that time. 2 & 3 Victoria c.93. Griffiths in *The Police Forces* gives 1857 as the date of amalgamation of Welshpool borough force with the county force. However, in the clerk of the peace’s notes at Powys County Archives, the date is 1858 (P.C.A. MQ/CX/2).

by Chartist troubles, notable in Llanidloes and Newtown,⁸⁰ but other crime had as much, or more, influence, particularly crime related to the implementation of the New Poor Law. In 1836 Edwin Chadwick had argued for a strong rural police force for the suppression of tumults connected with the administration of relief,⁸¹ and many newspapers linked the proposed police reform with the 1834 Poor Law Amendment Act. In 1837 the yeomanry had gone to the aid of an assistant Poor Law Commissioner who was being threatened by a mob in Llanfair Caereinion, and the following year had been called out to deal with trouble at Caersws workhouse.⁸² These events and others like them led to some Montgomeryshire people associating the new, reformed police of the 1840s with oppression of the working class.

Montgomeryshire Constabulary at the beginning of the 1870s

Thirty years had now passed since the founding of the county force. The number of constables had grown by over 100 per cent and the number of places in which the men were stationed had increased correspondingly. Appendix 2 gives the names of the officers and constables present near the beginning of the decade as well as brief biographical information. Some men were found by their appearance in newspaper reports, and some were tracked down by examination of the 1871 census.⁸³ There were clusters of officers in Newtown and Welshpool, and individuals or pairs of men at other stations. A sergeant could be found in both Newtown and Llanidloes, and inspectors in Newtown and Welshpool. The chief constable and the county's sole superintendant were based in Newtown.

Whereas there were lines of social differentiation within the magistracy, imperceptible to many people, there was no such subtlety between the Bench and those who brought defendants to them. It has not been possible to trace the histories of

⁸⁰ E. Parry, 'The bloodless wars of Montgomeryshire: law and disorder, 1837-41', *Mont. Colls.*, 97 (2009), pp. 123-164; O.R. Ashton, 'Chartism in mid Wales', *Mont. Colls.*, 62 (1971), pp. 10-57; E.R. Morris, 'Who were the Montgomeryshire Chartist?', *Mont. Colls.*, 58 (1963-4), pp. 27-49.

⁸¹ Foster, D., *The Rural Constabulary Act, 1839* (London, 1982), p.14; Snell, *Annals*, pp. 135-6.

⁸² Phillips, *A View*, p.140; B. Owen, 'The Newtown and Llanidloes poor law union workhouse, Caersws 1837-1847', *Mont. Colls.*, 78 (1990) p.120.

⁸³ See Emsley, *Great British Bobby*, for life stories of policemen, especially Chapter 6.

all members of the Montgomeryshire force but in some cases the occupation of the policeman's father has been found. Table 3.7 summarises this information and shows how the constables were from a working-class background, as found in recruitment to forces throughout Britain, and from agricultural, labouring, retail and craftsman backgrounds as in Carolyn Steedman's seminal work on the Buckinghamshire force.⁸⁴ Taylor states that in the eyes of chief constables, the agricultural labourer made the ideal candidate because of strength and qualities of stoicism and deference, but in reality they may have proved poor candidates.⁸⁵

Magistrates had a variety of reasons for joining the Bench, but pay was not one of them. Money, however, was often the motivating factor for police recruits. Whereas farm workers could never be certain of having either work or regular pay, the opposite was the case for the police, although some described the remuneration as poor. Steedman's analysis of constables' pay has shown that in some counties real gains in wages could be made by becoming a policeman,⁸⁶ and investigation of Montgomeryshire Constabulary pay data and the labour books from the Gregynog Estate near Newtown, enable a similar analysis.⁸⁷ Data is available to allow the pay of senior officers to be compared to white-collar workers,⁸⁸ as well as labourers to be contrasted with constables. The results are summarised in Tables 3.6, 3.7 and 3.8.

⁸⁴ Steedman, *Policing the Victorian Community*, pp. 69-91. Steedman writes of the rapid expansion of forces after 1856 drawing on working-class recruits, often those who could not find work in factories, and a 'great army' who would otherwise have worked the land. Gorer argues that the Metropolitan commissioners originally recruited agricultural labourers to ensure a P.C.'s status as an agent of impersonal authority, free from local or class ties. G. Gorer quoted in D. Hobbs, *Doing the Business* (Oxford, 1988), p. 35.

⁸⁵ D. Taylor, *The New Police*, p. 47.

⁸⁶ Steedman, *Policing the Victorian Community*, p. 112. Taylor quotes the chairman of the Bristol watch committee who stated: 'Our recruits all come from districts where work is bad and wages light. A large number of them come from lower parts of Somersetshire and Devonshire where wages are notoriously considerably below average.' Taylor, *The New Police*, p. 49.

⁸⁷ Report of H.M.I.C., P.P. 1871, xxviii, p.59; Gregynog Estate Labour Books, 1866-73, N.L.W. 1957112/55.

⁸⁸ The term 'white collar' is thought to originate in the early twentieth century (http://en.wikipedia.org/wiki/White-collar_worker, viewed 29/11/2010) but it is possible it was used earlier.

Surname	Father's occupation	Occupation prior to police
P.C. Ashton	Labourer	Shoemaker
P.C. Breese	Farmer of 25 acres	
P.C. Breese	Farmer of 93 acres	Working on father's farm
Insp. Clayton	Shoemaker	
P.C. Crowden	Beer seller/inn keeper	
Chief Constable Danily	Farmer of 25 acres	
P.C. Davies	Possibly bricklayer	
P.C. Edwards	Shoemaker	Shoemaker
P.C. Edwards	Flannel manufacturer	Flannel worker
P.C. Ellis	Sawyer	Sawyer
P.C. Hudson	Farmer	
P.C. Lewis	Grandfather: farmer of 38 acres	Farm labourer
P.C. Little	Agricultural labourer	Agricultural labourer
Sgt Owen	Farmer	
P.C. Pearson	Blacksmith	
P.C. Poole	Labourer	Labourer
P.C. David Richards	Miller	
P.C. Daniel Richards	Cottager	Farm worker
P.C. Sibbald	Farmer	On father's farm
Supt Strefford	Possibly farmer	
P.C. Tanner	Agricultural labourer	Farm worker
P.C. Thomas		Possibly carter on farm
P.C. Thomas		Woollen spinner
P.C. Vaughan	Shoemaker	

Table 3.6: Previous occupations and fathers' occupations (where known)

Occupation	Annual pay £-s-d
Chief constable	250-0-0
Land agent's clerk	105-0-0
Superintendent	100-7-0
Inspector	84-12-0
Schoolmaster	34-13-4

Table 3.7: Annual pay of senior estate staff and senior police officers, 1870

Occupation	Rate of pay (per day) s-d
Police sergeant	3-7
Constable (first class)	3-0
Constable (second class)	2-9
Constable (third class)	2-6
Gamekeeper	2-4
Carter	1-8
Haymaker (male)	1-8
Postboy (experienced)	1-4d
Haymaker (female)	1-3
Postboy (new)	0-8

Table 3.8: Daily pay of estate workers and lower ranks, 1870

Much of the estate work, such as haymaking, was seasonal but if all the rates of pay are converted to annual amounts, a league table of pay can be constructed, shown in Table 3.9. Steedman makes the point that other factors such as boot allowance and deduction for superannuation should be taken into account when considering pay.⁸⁹ As well as this, policemen received pay for attending events and allowances for inspecting livestock under the Contagious Diseases (Animals) Act.⁹⁰ Steedman mentions that the men received half pay for a limited period during sickness and that this was not a benefit enjoyed by other members of the uniformed working class, and there was also the prospect of promotion.⁹¹ Considering all these things, the pay of the policeman in Montgomeryshire was attractive and helps explain why several of the Montgomeryshire policemen stayed in the job for 10 years or more.⁹²

⁸⁹ Other workers featuring in the Gregynog labour books would have received payments in kind too. For example, the land agent's house went with the job, as did the schoolmaster's, although it is not clear whether the occupants paid rent.

⁹⁰ F. Clements, 'Sergeant W.R. Breese: a policeman in rural nineteenth century Denbighshire', *Trans. Denbighshire Historical Society*, 56 (2008) p. 126.

⁹¹ The clerk of the peace's record book records that between 1869 and 1873, 12 of the constables named in Tables 3.4 and 3.5 received promotion. (P.C.A. MQ/CX/2).

⁹² Some rural workers entered the workhouse during winter months, putting them even further down the league table and making the policeman's pay seem even better. However, Stead makes the point that the pay was small for the hours worked (P.J. Stead, *The Police of Britain*, p. 60), and Weinberger states that in the interests of ratepayers, pay was kept at the lowest

Occupation	Annual amount £
Chief constable	250
Agent's clerk	105
Superintendent	100
Inspector	84
Sergeant	65
Constable (1)	54
Constable (2)	49
Constable (3)	45
Gamekeeper	42
Schoolmaster	34
Carter	30
Haymaker (male)	30
Postboy (experienced)	24
Haymaker (female)	23
Postboy (new)	12

Table 3.9: League table of pay, 1871. (Seasonal pay for haymakers has been multiplied to an annual sum for comparability purposes only)

Levels within the constabulary

There was a differentiation among members of the county constabulary that was formalised and visible in their employment status, as with men and officers as in the army. There was the pay differential, but also the terminology indicated status. A man might join as a third-class constable, achieve second-class status after 12 months and possibly first-class status five years later. He might go on to become a sergeant or, rarely, an officer.⁹³ One such recruit was innkeeper's son Edwin Crowden who joined the constabulary from Cardiff, achieved second-class status in 1871 and retired from policing after 30 years with the rank of superintendent. Dramatic progress was seen by John Danily. He joined the force in 1851 and was an inspector within ten years. He

rate possible that could attract literate men. B. Weinberger, 'The police and the public in nineteenth century Warwickshire', in V. Bailey (ed.) *Policing and Punishment*, p. 83. In Warwickshire, the chief constable had great difficulty filling posts throughout the 1870s, but this could be a reflection of the pay available for other occupations in this county which was a relatively diversified economic area. (http://en.wikipedia.org/wiki/History_of_Warwickshire viewed 12/12/2010). See 'Development of the long-term policeman' in Taylor, *The New Police*, pp. 61-77.

⁹³ Taylor recognises that there was a hierarchy within the police. Taylor, *The New Police*, p. 53.

became chief constable in 1868.⁹⁴ Later, over a period of retirement that lasted 28 years, he drew a total pension of £6,720.⁹⁵ Regardless of increased status, however, the poor backgrounds of some of the men could come back to haunt them. This could be in the form of abuse, or goading, from those members of the general public who resented the police. Weinberger describes ‘baiting’ of the police, giving an example of a youngster threatening to kick a policeman.⁹⁶ In Newtown on Christmas night 1868, P.C. Richards was baited by a drunk outside a public house, and the terms of the abuse related to his agricultural background. The assailant shouted: ‘Thou art only a plough boy, I’ll warm thee, I’ll have thy inside out’, such abuse highlighting class.⁹⁷

Another incentive for joining the force was the possibility of police accommodation. As well as providing a regular, decent income for his family, a married policeman could give his dependents a relatively comfortable house to live in. For example, farmer’s son John Sibbald began as a constable living with his wife in a cottage in Berriew. Ten years on, they were in the new police house at the top end of Llanidloes, very near to the bottom of the drive leading to J.P. Richard Woosnam’s estate. The 1871 census shows Constable William Breese living in the newly-built police station in Llanfair Caereinion where he, his wife and nine children lived for at least ten years.⁹⁸

Appendix 2 shows biographical information found in the censuses and it can be seen that 28 men served at least 10 years and 20 men served at least 20 years. One of the most notable was James Owen who was among the first intake of constables to the

⁹⁴ Steedman’s analysis of Buckinghamshire shows a man joining as a constable in 1857 who became deputy chief constable thirty years later. Steedman found that promotion within the classes of constables was considerably faster than in Montgomeryshire, typically four months to rise from third class to second, and a year to rise to first class. Steedman, *Policing the Victorian Community*, pp. 106-7. Montgomeryshire rates of promotion are detailed in the clerk of the peace’s records, P.C.A., M/Q/CX/2.

⁹⁵ *M.E.*, 26/1/1915.

⁹⁶ B. Weinberger, ‘The police and the public in nineteenth century Warwickshire’, p. 70.

⁹⁷ *N.W.E.*, 5/1/1869. In terms of social hierarchy, dialect can reveal shared values among both rich and poor. P. Joyce, *Visions of the People: Industrial England and the Questions of Class, 1848-1914* (Cambridge, 1991), p. 299; K.D.M. Snell (ed.), *The Regional Novel in Britain and Ireland, 1800-1990* (Cambridge, 1998), pp. 32-5, 47-52.

⁹⁸ Police houses were not rent free. An amount was deducted from the men’s pay. See Police Committee discussion, *N.W.E.*, 24/10/1876.

county force in 1841, became a sergeant in Llanidloes and retired in 1875 after 35 years' service.⁹⁹ Another long-serving officer was Henry Clayton who achieved inspector rank by 1870. He left the county, however, and appears on the census for Toxteth in 1871, with the rank of P.C. It is not known why he decided to go, but even with the reduced rank, in Liverpool the pay rates were such that (if he had been first-class constable) he would have been earning more than he had been as an inspector in Newtown.¹⁰⁰

There are indications of the magistrates being aware of their responsibilities. When P.C. Richards was assaulted by a drunk, the Bench stated that the police must be protected at all costs, and imposed a heavy fine.¹⁰¹ They ordered in January 1869 that hats be replaced by helmets as the latter were less likely to be displaced during 'a row',¹⁰² and in October of the same year they ordered that a supply of replacement staves be purchased as several currently in use had become 'unserviceable'.¹⁰³ In March 1877, the Bench at Quarter Sessions ordered the payment of the surgeon's bill after Constable Ashton was wounded in discharge of his duty.¹⁰⁴ These details give a clue that policemen saw plenty of active service, and this will be explored in due course.

Just as magistrates' social status, and the way in which they might have been viewed by others on the Bench, was indicated by their residences, so the policemen's houses gave similar, unspoken information. Table 3.10 gives the accommodation that

⁹⁹ A descendant of Sgt Owen has produced a detailed web site about his life and work: www.owen.cholerton.org (4/11/2010).

¹⁰⁰ The H.M.I.C. report of 1870 gives a first-class constable's pay in Liverpool as 26s. per week (equivalent to 3s. 8d. per day, a penny a day more than a sergeant in Montgomeryshire). Pay was laid down by government circular (Steedman, *Policing the Victorian Community*, p. 108) but it was Quarter Sessions that fixed the rate. W.C. Maddox, *A History of the Montgomeryshire Constabulary, 1840-1948* (Carmarthen, 1982), p. 2.) Borough police wages were dependent on local revenues hence more prosperous boroughs could pay more. Birch explains how Liverpool's first chief constable was offered £650 and Manchester's £550 (Birch, *The History of Policing in North Wales*, p. 90). By 1870, Liverpool's chief constable's pay was £1000 per annum.

¹⁰¹ *N.W.E.*, 16/11/1869.

¹⁰² *N.W.E.*, 12/01/1869.

¹⁰³ *N.W.E.*, 26/10/1869.

¹⁰⁴ P.C.A., Clerk of the Peace's records, M/Q/CX2.

a policeman or officer could expect, depending on his rank.¹⁰⁵ The list intimates that a man ranked as sergeant or above would be married, and shows the importance put on lavatory arrangements.

Class	Description	Additionally
Single constable	1 living room 1 cleaning room 3 sleeping bunks	Office, cells, constables' day room and witnesses' waiting room
Married constable	1 living room 1 scullery and washhouse 1 pantry and store 1 coal cellar under stairs 1 water closet in the yard 3 bedrooms	Office and two cells, with entrance distinct from constable's entrance
Sergeant	1 sitting room 1 kitchen 1 scullery 1 pantry and store 1 coal cellar and water closet in the yard 3 bedrooms	Office and three cells with entrance distinct from sergeant's entrance
Inspector	1 sitting room 1 kitchen 1 scullery 1 pantry and store 1 coal cellar and water closet in the yard 3 bedrooms 1 small room	
Superintendent	2 sitting rooms 1 kitchen 1 scullery 1 pantry 1 store 1 coal cellar and water closet in the yard 4 bedrooms 1 small room	

Table 3.10: Descriptions of constabulary accommodation, 1875

¹⁰⁵ *Memorandum on the construction of police stations 1875*, P.C.A., MQ/AC/7. This was written by Edmund du Cane, surveyor-general of prisons and designer of forts on the south coast of England, and a former Royal Engineer. (*D.N.B.*)

The presence of the legal system in the built environment

In earlier centuries the focus of justice was often the lord of the manor's residence, or even under a tree on the village green. The nineteenth-century system, with its paid police force and widespread magistracy, not only had a bearing on the detection of crime and subsequent prosecutions, it also had repercussions for the landscape, mostly in populated areas where police stations and courts were placed. The arrival of these buildings indicated the permanent and solid establishment of the system and displayed and reinforced the hierarchy of the justice system.

By the middle of the decade, the standard of police accommodation was laid down.¹⁰⁶ Its construction could also be requested and required by government officials. In 1874, inspector of constabulary, Charles Augustus Cobbe wrote to Chief Constable Danily:

6 October 1874.

Dear Mr Danily,

When I was at Newtown, I think you hinted at a prospect of the justices considering the subject of your cells at Newtown at these sessions. If the subject be brought up could you not introduce the plan of having a regular St. House [station house] built at Newtown with the cells (say three in number) in the residence provided for the officer and so have all together – public office, residence and cells. The present arrangement cannot be a desirable one for some one must be within call of persons whenever in custody & no member of your force living near, resort must be had to whoever resides in the building to answer the call of the prisoners.¹⁰⁷

Divided authority over prisoners is bad and leads to insecurity and there are many strong reasons why a person in custody should, till committed to prison, be in charge of the police who in 99 cases out of a hundred have taken them into custody & who are [illegible] responsible for the person as well as the property. As we walked

¹⁰⁶ For background information on police pay scales, superannuation and standards of lock ups, see R. Cowley, R. Todd and L. Ledger, *The History of Her Majesty's Inspectorate of Constabulary: The First 150 Years* (n.d, n.p.).

¹⁰⁷ Examination of the 1871 census suggests that P.C. Richard's residence was across the road and some 50 yards from the building known as the Public Rooms which housed the cells at that time. A flannel measurer and a warehouseman were living in the Public Rooms which also served as a flannel exchange. The cells are currently used as lavatories.

towards the Bridge there seemed a very suitable piece of ground which I understood – but perhaps erroneously – was available. You will remember the plot – just close to and adjoining the present cells which might be utilized by a little rearrangement and arrangement of place.

The present arrangement about your cells is not satisfactory so if the justices are considering the subject, it will be a good opportunity to submit the view of a regular St. [station] House at Newtown, [your] headquarters and [your] gaol being at a distance makes it the more desirable to have good cells where persons may be kept under remand if necessary.

Believe me,
Yours truly,
C. A. Cobbe¹⁰⁸

Three years later, plans were in place for a new police station with the accommodation advocated in the letter.¹⁰⁹ The plans were approved and the building was completed in 1879. It still stands today, albeit redundant. (Figures 3.6(a) and (b) and 3.7).

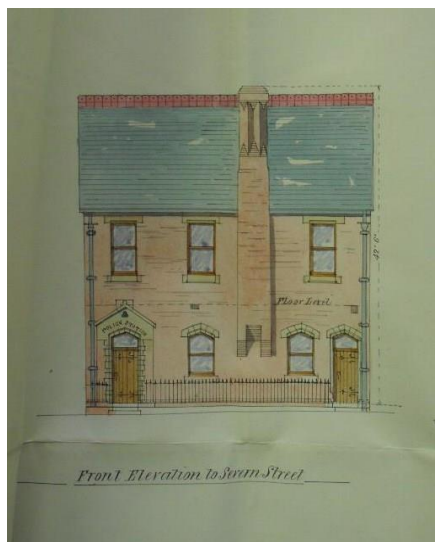


Figure 3.6: (a) Architect's drawing of the proposed new police station and lock up in Newtown and (b) Newtown's old police station in 2011.

¹⁰⁸ P.C.A. M/Q/AC/6. Charles Augustus Cobbe had been chief constable of the West Riding of Yorkshire before being appointed H.M. inspector (from 1861 census).

¹⁰⁹ The architect's drawings are in P.C.A. M/Q/AC/6, dated 17/11/1877.



Figure 3.7: The location of the police station shown on the 1902 Ordnance survey map, adjacent to the infirmary.

Note that the entrance on the left, marked in the architect's plan as 'Entrance for magistrates', is finer and more decorated than the other which is marked 'public entrance'. The first-floor residential accommodation shows living room, pantry and scullery; three bedrooms and a private stairway. Thus, with reference to Table 3.11, this living space was intended for a married constable, and he and his family would enjoy privacy in highly secure accommodation with their own entrance. This was at a time when most of the people he dealt with in his day-to-day work shared entrances to mean quarters. The new police station fulfilled Cobbe's recommendation for the police officer to be within easy call of the prisoners as there are four cells shown on the ground floor. It also included a fully-fitted courtroom, and justices' retiring room which was accessed via a private stairway.

At Welshpool, the lock up was deemed unfit in 1848 and in February 1861 building began on a new station house with cells in the town.¹¹⁰ See Figure 3.8(a) and (b). As in Newtown, the officer and his family living here had a well-built house, security and their own entrance.

¹¹⁰ P.C.A. M/Q/CX/2; M/Q/AC/2. The building still stands, now used as a hostel for homeless people.

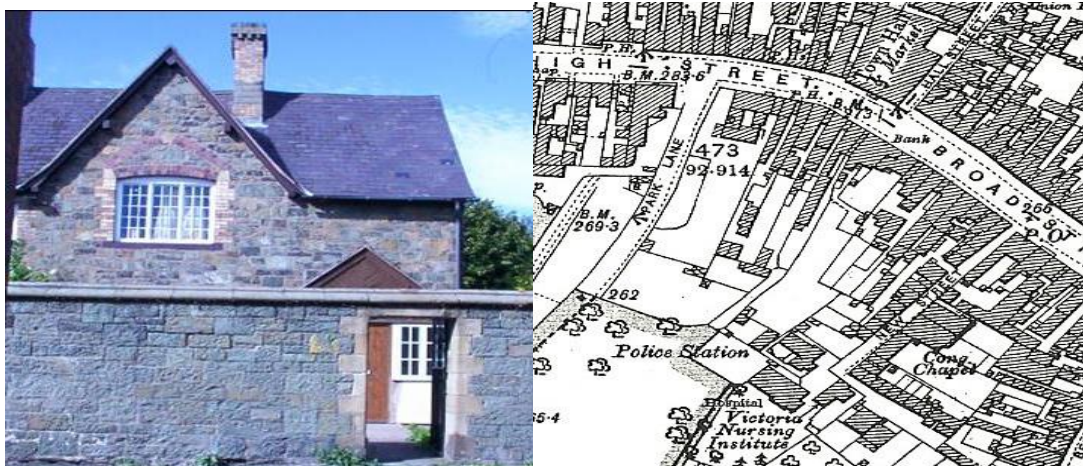


Figure 3.8: (a) Welshpool Police Station begun in 1861 (b) Location of Welshpool police station

This investigation has shown that a hierarchy among the police was evident, with demarcation being made in a similar way to the magistrates, including abode, title and income.

Courthouses

The new police station building in Newtown also housed the court in which Petty Sessions were held. The magistrates entered through the separate entrance described earlier, and reached their retiring room via a separate stairway. From the retiring room was direct entry to their dais in the courtroom. Currently, the building is semi-derelict and about to be renovated, but the remains of the dais can be seen.¹¹¹ From there the men were elevated and looked down upon the gathered community below, and the community necessarily had to look up to the Bench.¹¹² Quarter Sessions were held in the Public Rooms, the grandest building in the town, at the back of which were the original cells. In most of the Petty Sessional divisions, new court buildings were being erected, for example at Llanidloes (Figure 3.9) establishing the presence of the system on the community.

¹¹¹ The author was shown around the building by the architect, 15/4/2013.

¹¹² A former magistrate has said, 'There was a feeling of distance from the other people in the court. That was probably the whole idea'. (Personal correspondence, Anna Pugh (16/4/2013).



Figure 3.9: Entrance to Llandiloes Magistrates' Court. The moulding beneath the coat of arms gives the date of construction as 1864

In Welshpool, Petty Sessions were held in a solicitors' chambers in Severn Street. Quarter Sessions were held in the town hall which was some 65 years old, built on the site of a town hall or guild hall that had been in place since at least 1629. Quarter Sessions paid rent to the Local Board for use of the chambers for court purposes. A photograph of this building is shown in Figure 3.10. The administrative business, on the first day of proceedings, was held in the grand jury room situated upstairs. By the end of the 1860s, the town hall, which also housed the market on the ground floor, was considered by some to be too small, and discussions were taking place regularly at meetings of the Local Board and at Quarter Sessions regarding its future.¹¹³ At the Hilary Sessions of 1869, John R. Jones, chairman of the Town Hall Committee of magistrates, read from their report:

The existing courthouse has been the subject of constant complaint by the judges; it has no retiring room for the judge, barristers' robing room, or

¹¹³ *N.W.E.*, especially 5/1/1869, 23/2/1869 & 5/10/1869.

petty jury room and, excepting one instance, is without proper conveniences.... [The plans for the new court] provide on the first floor a good Assize court with judge's retiring room, grand jury room and all other accommodation for county purposes.¹¹⁴



Figure 3.10: Welshpool town hall as it was in 1869, shortly before refurbishment. The courtroom and jury room were on the first floor (Bredsdorff, *Welshpool*, p.45)

No mention was made of witnesses, the public or prisoners and the focus seems to be upon those court users from the higher classes. This appears confirmed by the Earl of Powis's words in a discussion about the holding of Quarter Sessions alternately at Newtown and Welshpool, putting importance on the prestige of the Sessions:

The competition alluded to was not for the Petty Sessions but to have the honour of having the Quarter Sessions held there. The Petty Sessions were paid for [to Newtown Local Board for use of space in the public rooms] but the Quarter Sessions were free.¹¹⁵

As discussions over the future of Welshpool town hall continued, a ratepayer wrote to the editor of the local newspaper expressing his concern:

Sir-

A proposal was made before the magistrates at the last Quarter Sessions in Welshpool that a large sum of money from the rates of the county of Montgomery should be voted for the Quarter Sessions and Assize buildings at Welshpool, the Assizes and Quarter Sessions being held alternately at Newtown and Welshpool. A few years ago they were held

¹¹⁴ *N.W.E.*, 12/1/1869.

¹¹⁵ *N.W.E.*, 13/1/1874.

altogether at the county town – Montgomery.¹¹⁶ At the change taking place, it being then thought for the convenience of the whole county, sufficient accommodation was provided for both holding the Assizes and Quarter Sessions at Newtown, not by the ratepayers of the county, chiefly agricultural, but by voluntary subscriptions for the fitting up and furniture, and by shares of £50 each by the inhabitants and their adjoining neighbours, for which no money interest was received for a number of years, and if this was done at the central and most convenient town, surely it may be done at Welshpool which is the richer portion of the county.

I would earnestly request the magistrates to consider well their present position. As far as it is possible to judge, there will be a change in the power of voting. A bill supported by many of both parties in the House of Commons will create a county board, elected by the general body of ratepayers.¹¹⁷ At present, many of the most worthy and most useful magistrates are clergymen, having no large landed stake in the county. The fair opinion of the whole county ought to be taken. I have formally noticed that a Quarter Sessions held at Welshpool and at Newtown do not always take the same views in the case of motions affecting the whole county. On the present motion, both meetings are held in one place at the end of the county.¹¹⁸ Wishing to put the case fairly for consideration, I remain your obedient servant,

T. P.¹¹⁹

T. P., at least, had recognised that decisions made by magistrates from ‘down the valley’ could be different from the more gentrified section of the Bench, those living ‘up the valley’.¹²⁰ Significantly, T. P. also noted that those men without landed

¹¹⁶ Note that Quarter Sessions had earlier been held at various towns around the county, including Welshpool, Llanfyllin (until possibly 1830); Montgomery, Newtown, Machynlleth and Llanidloes. E.A. Lewis, ‘A schedule of the Quarter Sessions records of the county of Montgomery at the National Library of Wales’, *Mont. Colls*, 46 (1940), p. 157.

¹¹⁷ In fact, this came about 20 years later when the Local Government Act of 1888 led to Montgomeryshire County Council being established in 1889. Elected county councils (and county borough councils in borough towns with populations of over 50,000) lasted for nearly 100 years, being abolished in 1974. D. Hey, *Local and Family History*, p. 115.

¹¹⁸ The following were the locations of 1869 Quarter Sessions: Hilary- Welshpool; Easter- Welshpool; Midsummer- Newtown; Michaelmas- Welshpool.

¹¹⁹ *N.W.E.*, 26/1/1869. The whole letter is reproduced here because of the wealth of evidence contained within it.

¹²⁰ ‘Up the valley’ and ‘down the valley’ were terms used locally when referring to the differentials in prosperity often found along the Severn valley, and are in use in the 21st century.

interests could have noticeably different sensibilities. His words could contain a warning or veiled threat that uncooperative men might one day be voted out.

The decision to adapt Welshpool town hall was taken, and the improvements were completed in 1874. The architect's drawing of the new building is shown in Figure 3.11.¹²¹ The drawing shows that he, at least, was aware that the building would serve all manner of people. His addition of members of the lower classes to the picture may have been a result of discussion with his clients, *viz.* the Local Board and the magistracy, or may have been a representation of his own thoughts about the building's future use.¹²²

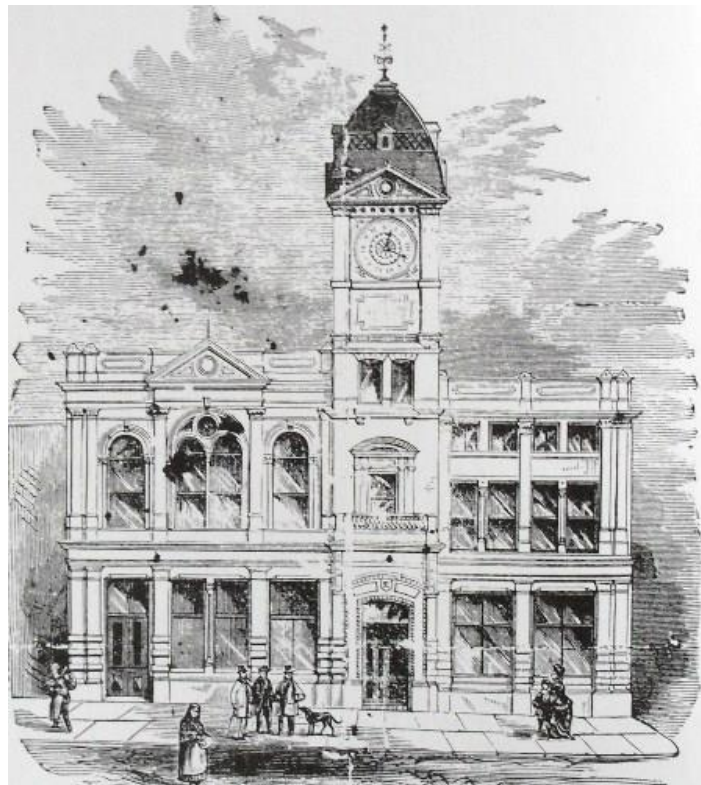


Figure 3.11: Architect's drawing of Welshpool's new town hall (Bredsdorff, *Welshpool*, p. 46)

¹²¹ E. Bredsdorff, *Welshpool in Old Photographs* (Stroud, 1993), p.46.

¹²² The architect was Benjamin Lay of Welshpool. Haslam describes the amended town hall as 'vaguely French Renaissance'. Haslam, *Buildings of Wales*, p. 210.

The building's front elevation included a balcony, enabling dignitaries to observe the people from above as was the case with the Bench in the courtroom in Newtown (Figure 3.12).



Figure 3.12: Local dignitaries looking down at the people from the town hall balcony in Welshpool.¹²³

Conclusion

Appointment to the magistracy in Montgomeryshire followed the pattern seen elsewhere in the country. The aristocracy was represented, along with members of the old county set, but the new-gentry class of former merchants and tradesmen supplemented the Bench. Anglican clergymen joined them and were recognised by some members of the public to play an important role, but there was probably a feeling among the wider community that the exclusion of Nonconformist ministers was unfair. It was recognised that the income of ministers was related to their appointment to public roles. There was a hierarchy within the set that was established by each man's background, and perhaps more visibly indicated by the residence that he occupied. This was most clearly observed when considering borough justices and their town houses. The status of each man determined particular roles that he was able to play in the county power structure, and establishing himself in higher society was likely to have been a motivating factor to joining the Bench. Just as the Montgomeryshire magistracy reflected Benches elsewhere in the country, so appointment to the Montgomeryshire constabulary followed a particular pattern seen in other counties. The men were working- or lower middle-class, and the systematic

¹²³ Figure 3.6 is from *The County Times*, 26/5/1910, showing the High Sheriff, Lord Herbert Vane-Tempest in the centre, proclaiming the new king, George V.

pay and conditions, access to promotion and good living quarters explained why many men joined and stayed in post for years. A hierarchy was present within the force, with each man's status established by his pay and conditions, particularly the accommodation to which he was assigned.

The system of justice was represented in the urban landscape in the form of police stations and courts. The construction of new police buildings was subject to government directives and although one inspector of constabulary, a former chief constable, highlighted the needs of prisoners when considering the construction of the headquarters in Newtown, its outward appearance nevertheless exhibited the hierarchy among those who used it. So it was too with the renovated town hall in Welshpool which seemed primarily designed to suit the magistrates' desire for prestige.

The forthcoming chapter will examine the everyday work of the constabulary, and the responses of various sections of the general public.

Chapter 4

Montgomeryshire Constabulary

Men, Methods and Community Response



The system of a paid police force in Wales was established at a time of civil unrest, increased crime being associated with growing towns and cities and calls for political reform.¹ In Montgomeryshire, the new police were notably associated with suppressing toll gate riots and protests against the new workhouses.² The present chapter examines the work of the county's policemen three decades after their foundation, and investigates the demands made on them by the wider community, and

¹ Philip Jenkins puts it bluntly: 'It was in the early Victorian era that Welsh communities first developed professional police forces, in response to the public order problems faced by industrialisation. (Jenkins, *A History*, pp. 254-5. See also Jones, *Crime*, p. 201; R.D. Storch, 'The plague of the Blue Locusts: police reform and popular resistance in northern England, 1840-57', *International Review of Social History*, 20 (1975), p. 62. Taylor, *The New Police*, p. 36. See also C. Emsley, 'A typology of nineteenth-century police', *Crime, History and Society*, 3 (1991), pp. 29-44 for a comprehensive coverage of the development of European police forces. See also R. Cowley, *A History of the British Police: From the Ninth Century to the Present Day* (Stroud, 2011).

² Owen, 'Newtown and Llanidloes poor law union workhouse', p.120; Phillips, *A View*, p. 140. Carmarthenshire and Cardiganshire established their county forces as a direct result of toll gate riots. The Montgomeryshire forces had been established earlier and this may be why the rioting did not spread further into the county than the southernmost area. A report of the toll gate events in the Rhayader area was written by the chief constable of Montgomeryshire and submitted to Quarter Sessions. The report is reproduced in part in Maddox, *History of Montgomeryshire Constabulary*, pp. 10-11. See also the Journal of P.C. Thomas Jones, P.C.A., M/SOC/7/42. Jenkins argues that the slump seen in mid Wales textile towns contributed to the unrest of the 1840s. Jenkins, *A History*, pp. 266-7.

the reactions of varying sections of the general public to their presence and actions.³ This study will give context to later chapters in which court cases are viewed by considering police methods of dealing with situations and apprehending suspects.

Organisation and work of the county force

Montgomery was a small constabulary compared to, for example, neighbouring Shropshire, but not when compared to other Welsh forces. Table 4.1 shows the number of constables in Montgomeryshire and its neighbouring Welsh counties in 1871, and Table 4.2 shows the ratios of constables to population and acreage. The far greater number of constables in Denbighshire resulted in a considerably reduced area for each man to patrol in that county.

Constabulary	No of constables
Denbighshire	50
Cardiganshire	26
Montgomeryshire	26
Merionethshire	21
Radnorshire	11

Table 4.1: Number of constables in Montgomeryshire and its neighbouring counties.

Constabulary	No. of constables	Population per constable	Acreage per constable
Radnorshire	11	1262	17,008
Montgomeryshire	26	Not given in report. In 1861 was 2307	15,591
Merionethshire	21	1729	14,270
Cardiganshire	26	2099	12,668
Denbighshire	50	Not known. In 1861 was 1968	5941

Table 4.2: Ratio of constables to population.⁴

³ For descriptions of the working lives of nineteenth-century policemen in disparate locations around Britain, see Emsley, *The Great British Bobby*, especially chapter 5.

⁴ Information from the *Report of Her Majesty's Inspector of Constabularies, 1871*. The situation in neighbouring Shropshire was different as there were several borough towns which were considered separately by the inspector.

Policing the county

Policemen were located around the periphery as well as in the interior. Easy access points into the county, including Kerry, Buttington and Cemmaes, were manned, and the usefulness of these locations as security points becomes even more apparent when placed on a map of turnpike roads (Figure 4.1).⁵ It can be seen that although the southern and western entry points were covered, the entry points at the north and east were guarded even better, but as this was the more highly populated area, more policemen would be located there in any case, not simply as guards as might have been expected at the time of the toll gate riots.

Turnpike Acts began to be repealed during the second half of the nineteenth century with the last remaining trust (relating to the Anglesey portion of the Shrewsbury to Holyhead Road) expiring on 1 November 1895.⁶ In Montgomeryshire in the 1870s, money was still being made from the turnpike roads, realising healthy profits for the men who leased the gates. For example, the Park gate in Newtown made a profit of £199 in 1868-69.⁷ Although landowners were still making money from farmers and others in this way, the police no longer had to deal with riots at toll gates as seen thirty years earlier, but other types of offences occasionally took place. During the 1870s, 10 incidents leading to court appearances occurred at toll gates, although none of these involved police intervention that was recorded.⁸

⁵ Map from Jenkins, *Historical Atlas*, p. 92. Llanrhaiadr ym Mochnant, the most northerly location of a policeman on the map, is partly in Denbighshire. Although P.C. Thomas Vaughan stationed here is mentioned in newspaper reports of Montgomeryshire crime (e.g. the case of theft by Robert Hughes, *N.W.E.*, 26/10/1870) he later became deputy chief constable of Denbighshire. Therefore it is possible that in 1871 he was a constable with Denbighshire Constabulary rather than Montgomeryshire.

⁶ 'Repeal of turnpike laws' at <http://www.lawcom.gov.uk/docs/turnpikes.pdf>, p.11. (Viewed 18/11/2010).

⁷ Advertisement for auctions at which leases were to be sold for the 1869-70 period, *N.W.E.*, 9/2/1869.

⁸ *N.W.E.*, 9/2/1869, 1/6/1869, 3/5/1870, 14/7/1870, 6/9/1870, 10/1/1871, 16/5/1871 (two incidents); 20/5/1873, *M.E.*, 19/9/1876.

Vagrancy and pressure from the higher orders

Montgomeryshire roads contributed to one of the key features of the 1870s, the problem of the so-called 'tramping community'. The early establishment of the county force may well have prevented toll gate riots from spreading into the interior, and had a deterrent effect on vagrancy. As in other counties, tramps were present,⁹ exacerbated in Montgomeryshire by the policy of the guardians of Forden workhouse of providing relief to vagrants without their having to do work. It was said that in the early 1860s vagrants flocked to Montgomeryshire, treating Forden workhouse as a hotel.¹⁰ The decision of the chief constable to position men at entry points into the county may well have been to apprehend vagrants.¹¹ The report of her Majesty's Inspector of Constabularies spoke of the problem:

In consequence of the numerous systems adopted in different parts of the country, I am quite unable to offer any suggestion for its suppression [vagrancy] by police action. Unless the justices direct the police throughout the country to be stringent towards vagrants, the active efforts of the police, even supported by the justices in one county, will only drive the vagrants into another county or district.¹²

Fewtrell Clements makes the point that there was fear and prejudice against tramps among many segments of society, often the upper orders, and that, in response, the police tended to channel resources towards the protection of propertied members of society.¹³ Directives issued by justices or the chief constable, however, were restricted

⁹ Home Secretary George Grey used public fear of the vagrant criminal to promote his 1856 County and Borough Police Bill which became law and made the establishment of county police forces compulsory. (Steedman, *Policing the Victorian Community*, p. 25).

¹⁰ Maddox, *History of Montgomeryshire Constabulary*, p. 13.

¹¹ In neighbouring Radnorshire, the number of vagrants relieved in 1868 was 3687. The number had been growing steadily in recent years and the 1869 figure was an increase of nearly 500% on that of 1864. The chief constable of Radnorshire said that the vagrants preferred 'the comforts of gaol to the [Radnorshire] poorhouse [and] committed crime in order to go to gaol and were often clever enough to avoid hard labour' (Maddox, *A History of Radnorshire Constabulary*, p. 16. There were three workhouses in Radnorshire. Clements proposes that Denbighshire's chief constable deployed constables at strategic points that provided optimal surveillance opportunities. (Clements, 'Sergeant W.R. Breese', p. 127.)

¹² *H.M.I.C. Report, P.P.* 1870, xxxvi, p.4

¹³ F. Clements, 'Vagrancy in Victorian Denbighshire', *Trans. Denbighshire Historical Society*, 58 (2010), p. 64.

by the available number of officers. Both fear and prejudice, and the limited number of policemen, are illustrated by an anonymous letter and accompanying editorial that appeared in the *Newtown and Welshpool Express* in 1871:

I live in a secluded spot. The parish is about six miles long with a population of perhaps 700. The nearest police station is some half-a-dozen miles off. A police officer comes to the village, over the mountains (being nearer) about once a week; calls with the parson, and returns home invariably without a job though the district is swarming with tramps of the very worst stamp. Five have just passed in a troop and here are two more forming a rear guard. The latter have just called, asking for bread. On being refused, one of them started to argue with my sister on the ways of Providence and that it was a sin to work. ... They understand the latitude and longitude of the country and are well acquainted with every building in the district even from a hen roost to a nobleman's mansion. What is to be done towards scouring the country of these vagabonds? The most effectual way by far would be for every man to take physical force and use violence, driving every tramp out of the country and allow the police officers to refer to some other source for promotion. ... I am positive the support they [the tramps] get from farmers etc is not half enough for them therefore we have a right to believe they must be plundering.¹⁴

Signed John Verniew¹⁵

The editorial commented:

We believe that there is no exaggeration in his [Verniew's] statement that [his] side of the county, which is not too well supplied as it regards a police force, is completely overrun with hordes of these fellows which swarm about the country at this time of the year.

¹⁴ *N.W.E.*, 30/5/1871. From inspection of a map of Montgomeryshire parishes, the writer's parish could be Llanwyddyn. This parish later became the location of a new reservoir, begun in 1881 when an extra policeman was paid for by Liverpool Corporation. Letter from Liverpool Town Clerk, P.C.A., M/Q/AC/7; see also R. Kretchmer, *Llanfyllin: A Pictorial History* (Welshpool, 1992), p.173. See D. Phillips & R.D. Storch, *Policing Provincial England, 1829-1856* (London, 1999), p. 38 for a comment on the country gentry's attitude to rural policing. It has been said that during this period vagrants showed a marked antagonism towards Montgomeryshire farmers. D.J.V. Jones, 'A dead loss to the community: the nineteenth-century vagrant in mid-nineteenth century Wales', *Welsh History Review*, 8 (1977), pp. 312-44.

¹⁵ 'John Verniew' appears to be a *nom de plume* giving a clue to his home location as the River Verniew flows through northern Montgomeryshire, and there are a number of properties in the area with names such as Glan Verniew and Verniew Cottage.

Beside, police officers cannot – any more than other men – be in more than one place at once.¹⁶

Verniew's gently sarcastic comment about promotion may well be because one of the policemen stationed in the north-west was P.C. John Ashton of Meifod, who had been promoted to first class the previous year. Just three weeks before Verniew's letter, Ashton had been viciously attacked by a tramp. The attack on him, and the constable's response to the tramps Kelly and Cooke, was reported in detail in the newspaper:

On Sunday night, the officer took the prisoners into custody upon a charge of vagrancy, whereupon Kelly, contrary to all precedent in the neighbourhood in regards to tramps, began kicking him furiously and called upon Cooke to strangle him. The policeman threw Kelly down with the object of securing him. Cooke thereupon commenced kicking the officer and wrested the handcuffs from him and struck him a severe blow on the head with them. The policeman then, in self defence, drew his truncheon which he made good use of as to break it in halves. After a great amount of struggling he managed to secure both and bring them to Pool.¹⁷

The officer might have been responding to public or government pressure, a directive from the Bench, the Chief Constable, his own motivation or a combination of these. It seems the strategy of being pro-active towards tramps was working, for Her Majesty's Inspector's report for Montgomeryshire (1871) announced that 'Vagrancy is represented to have decreased considerably',¹⁸ although there could have been other contributing factors including strategies exercised by other counties.¹⁹ The account of Ashton's securing of Kelly and Cooke goes some way to explaining the sort of active service that resulted in truncheons and staves becoming unserviceable, but highlights the degree of violence used by Ashton to overcome the two men. Clive

¹⁶ Jenkins argues that political and religious dissent was 'able to grow on the fringes of shires, far from the agents of justice', *A History*, p. 6. This is exactly the same argument Verniew was making with regards to trouble relating to tramps.

¹⁷ Report of the attack *N.W.E.*, 2/5/1871. Details of the promotion are in the chief constable's report to Quarter Sessions, *N.W.E.*, 11/1/1870 and P.C.A. MQ/SO11.

¹⁸ *H.M.I.C. Report, P.P.* 1871, xxviii, p.59; *H.M.I.C. Report, P.P.* 1872, xxx, p.70.

¹⁹ Jones highlights the steep decline in vagrancy at the beginning of the 1870s and notes Montgomeryshire's method of moving tramps on. He identifies the new police as making a significant difference to the statistics of vagrancy crimes. Jones, *Crime*, pp. 162-4.

Emsley describes a case of two officers meting out violence to a suspect, which raises questions about the relationship between the police and different sections of society.²⁰ We will return to this later in the chapter.

It was not only with regard to tramps that pressure came from those sections of the community able and motivated enough to write letters to the newspaper. For example, in April 1878 a person using the name ‘Cat o’ Nine Tails’ wrote regarding youths throwing stones at passers-by at a location on the edge of Newtown:

... if this state of things is allowed to continue, persons will undoubtedly have to suffer injuries more severe than have hitherto been the case, and if some steps are not taken, or punishment inflicted, that would deter them from a repetition of this offence, pedestrians will be in constant danger. If the ‘limbs of the law’ would take a stroll in this direction they would no doubt find the air embracing, and their appearance would add to the general comfort and safety of the public, would be a great annoyance to these roughs and in the end would result in dispersing them or bringing them to their deserts – a thorough whipping – which would teach them how to conduct themselves in future.²¹

The gently sarcastic comment about strolling and finding the air embracing might indicate a degree of dissatisfaction at the police’s beats being at the centre of town, but the phrase following it shows a veiled acknowledgement of the force’s peace-keeping effect. The same acknowledgement is present and similarly veiled in a letter of complaint sent a few years earlier:

I refer to an act of vigilance on the part of the police officials of this town [Newtown] which I think should not be allowed to pass unnoticed. [Describes listening to Christmas street music in the centre of town.] When Behold! A body of individuals who are paid for looking after thieves, rioters, drunkards, etc and so enhancing our social comfort and enjoyment, appear on the scene and with an air that seemed to say, ‘I am the law of England embodied’ the largest of these gentlemen walked straight up to our musicians and – will it be credited – actually ordered them to play no more! Of course the musicians submitted as arguing with a policeman is as dangerous as was jesting with a priest in days of

²⁰ C. Emsley, *The English and Violence since 1750* (London, 2005), pp. 131-2.

²¹ *M.E.*, 27/8/1878. The pseudonym ‘cat o’ nine tails’ indicates vividly the degree of punishment this writer was looking for the stone throwers.

yore. I say they submitted, whether willingly or not I do not know, but I do know there was a strong feeling of indignation on the part of the listeners. One gentleman had the presumption to enquire of the large individual before alluded to if he was quite sure he was acting in accordance with the established law; he was politely advised to go home and go to bed. For myself I must say I never felt more indignant at any act of tyranny than I feel at this. ... I say that for the police to display such vigilance in putting down a time-honoured practice ... in manifest opposition to the wishes of the public, is a monstrous abuse of the power invested in them by virtue of the office they hold as public servants.

Signed
One of Six Thousand²²

‘One of Six Thousand’ clearly considered that the police were their servants, and were meant to be controlling the sort of disorder associated with the downtown, rougher sorts, not respectable pastimes enjoyed by the more refined. The violence meted out in some circumstances was mentioned in the letter, and there is a suggestion that there was local experience of officers acting in a heavy-handed fashion. The correspondence did continue, however, with further letters explaining that the music was going on rather late into the night.²³ Thus, the officers might have been acting on a genuine public grievance. Figure 4.2 shows a Christmas card dating from the period, illustrating the sort of feeling that could be engendered by street music. The card is evidence that people of the time would have been familiar with disturbances caused by such revelling.

²² *N.W.E.*, 30/12/1873.

²³ *N.W.E.*, 13/1/1874; 27/1/1874.



Figure 4.2: Cartoon illustrating one type of popular feeling towards Christmas street music.²⁴

The same acknowledgement of the useful part played by policemen in maintaining a level of order considered respectable by many is seen in the tributes paid to a constable about to leave a station in the north-eastern part of the county to take up a position as sergeant in Welshpool.

... Police officers in their difficult and arduous calling can not only do their duty well, but also by kindness and courtesy gain the sympathy and goodwill of the people who are not slow to recognise worth. [P.C. Breese] has at all times performed his duty well and courteously, gaining friends year by year. ... Mr Breese has been here amongst us for the last thirteen years and I think you will all agree with me that he has not made an enemy during that time. He has been a vigilant officer, having no mercy on thieves and men of that class, but he has never overstrained the law in the least, being fair and just to all. He has been a peaceman in every sense of the word.²⁵

²⁴ Reproduced with the permission of Malcolm Warrington from his web site www.scrapalbum.com (viewed 3/11/2012).

²⁵ *N.W.E.*, 27/4/1875. According to the *University of Wales Dictionary* (2002), the word *heddlu* (the Welsh word for police, literally meaning peace force) was first used in 1858. Before this, the word for constable was *heddswyddog* (peace officer) or *heddgeidwadd* (peacekeeper). Personal correspondence, Prof. Thomas G. Watkin, Bangor University (29/10/2012).

Here again is the intimation that police officers were known to step outside the boundaries of legal behaviour at times, and that they could make enemies by their actions. It has been possible to trace some of the attendees at the presentation, and they were all of the middle class, mainly farmers. The comment ‘has not made an enemy’ is likely to mean ‘has not made an enemy of anyone considered respectable’ and does not tell us anything about the sentiments of ‘rougher’ sorts. This speech also tells us that defence of property was of major importance to those celebrating the role of this particular policeman, whereas in Newtown, according to ‘One of Six Thousand’ rioting and drunkenness were of concern. In a presentation to P.C. Poole, stationed for four years in Tregynon – estate village of Lord Sudeley – but recently moved to Berriew, the same reference to courtesy was made, giving the impression that a degree of deference shown by a policeman to those who paid the rates was likely to be appreciated. In the known cases brought to court by P.C.s Breese and Poole, all were thefts by working-class people, with one case of drunkenness brought by Poole when he was serving for a time in Newtown.²⁶

Occasions such as the presentations made to P.C.s Breese and Poole may well have reinforced the idea in the minds of lower-class people that the police were in place for the good of those higher up the social scale. A prominent event was the bi-annual parade of magistrates at the Assizes, where a contingent of police marched behind the justices, giving the impression that they, the police, were the servants of the ruling classes or, indeed, the Bench (Figure 4.3).²⁷

²⁶ The same issues as those raised here are present in the twenty-first century, as similar newspaper correspondence shows. For example, the *Daily Telegraph* published a report entitled ‘Be polite to the public, police told’ (9/7/2013). A response to this reads: ‘Public sector workers [including police] should take pride in providing the best service they can to their fellow citizens, rather than by treating them with indifference or contempt.’ Another letter suggesting a different point of view reads: ‘What about the public being told to be polite to the police?’, *Daily Telegraph*, letters page, 10/7/2013.

²⁷ As a comparison of modern thinking to that of the nineteenth century, see guidance sent by the Senior presiding Judge and Lord Chancellor to magistrates 18/2/2014 stating that it is deemed inappropriate for magistrates to take any part in the selection of police officers in order to maintain public confidence in the impartiality of the magistracy.



Figure 4.3: Parade of justices and police at the Montgomeryshire summer Assizes, c. 1905.²⁸

These were among the types of occasions that led to some people thinking, as quoted by Storch: ‘They [the police] go strutting about, well clothed and shod ... ‘Who sent for the police? The middle classes’.²⁹

Some consider that the function of the new police was to suppress or destroy working-class culture and to impose alien values on the poor.³⁰ However, the middle classes were not exempt from police control, as a case from 1873 shows.³¹ Here, a group of retailers and skilled workers was involved in the type of activity the police commonly monitored and controlled among the working classes. The case involved drunkenness and the assault of a constable in execution of his duty which in this instance involved surveillance of a public house. During the afternoon of 26 March 1873, Sergeant Hudson, stationed in Newtown, heard ‘a great noise’ emanating from the Eagles Inn. In his testimony before the magistrates he said, ‘I went in and looked in the smoke room where I found six or seven persons. [These included the future Sir Pryce Pryce-Jones]. The noise I heard proceeded from Mr Bryan and [the landlord]. I

²⁸ Newtown Local History Group, *Newtown* (Stroud, 1995). p.111.

²⁹ R.D. Storch, ‘The plague of the Blue Locusts: police reform and popular resistance in northern England, 1840-57’, *International Review of Social History*, 20 (1975), p. 71. The picture of working-class policemen enforcing the law and the ruling elite handing out sentences is well illustrated in C. Emsley, ‘Mother, what did policemen do when there weren’t any motors? The law, the police and the regulation of motor traffic in England, 1900-1939’, *Historical Journal*, 36 (1992), pp. 357-81.

³⁰ See for example Storch, ‘Blue locusts’, p.65 and P. Rawlings, *Policing: a Short History* (Cullompton, 2002), p.143.

³¹ *N.W.E.*, 15/4/1873.

saw Mr Bryan was drunk.’³² A few hours later, Hudson sent P.C.s Jerman and Edwards to look in at the inn whereupon the landlord, Edward Jones, shoved Jerman out of the building. The landlord objected to his business and his clientele being watched by the officers.³³ Two members of the group inside the pub appeared in court to give evidence that there was no drunkenness, and the charge was dismissed. However, the landlord’s assault of the constable was deemed proved and he was fined £1. Here we see a policeman acting to quell disorder, yet Hudson nevertheless referred to the drunken man as ‘Mr’. It was found in this study that police officers in court always referred to working-class defendants and witnesses either by their full names, surnames only or as ‘the defendant’, ‘the prisoner’ or ‘the witness’. In the Eagles case we have a distinction being made between the forms of address used by the police for the usual, working-class court attendees, and middle-class men. Hence deference of a sort was shown even when a middle-class man was the accused.³⁴

Police activity in particular areas, and influence on attitudes

Study of the local newspaper shows that many of the cases seen at court took place in the centre of towns. Analysis of newspaper reports from the sample years 1869-70 of court cases enable police activity to be plotted on a map of Newtown (Figure 4.4). This shows clearly that police work was concentrated on the centre of town, with a few incidents on the periphery towards the north, east and south, and no police activity at all in the leafy and desirable suburb of Milford described in Chapter 1. Most of the activity corresponds with the points at which alcohol was sold, but these were also areas of commerce where householders were among those who part-financed the police force.³⁵ Thus policing the activities that caused public disturbances also made constabulary actions visible to many influential persons.

³² Bryan was a horse dealer and substantial farmer, employing live-in domestic servants and farm workers. *National censuses, 1871 & 1881*.

³³ The new police routinely subjected pubs and beerhouses to closer surveillance, Phillips, *Policing Provincial England*, p. 225.

³⁴ Comparison of newspaper reports to court records held at Powys County Archives shows that both types of written report used identical terminology for the policeman’s reference to the named individual. Therefore it seems that the language reported in the press was the same as used in court, and not the reporter’s choice.

³⁵ Apart from financial contributions from ratepayers, there was also a grant from the Treasury to forces deemed efficient by H.M.I.C.. For more information on this see D. Philips, *Crime and Authority in Victorian England* (London, 1978) p. 83.

Davey explains, when discussing Horncastle in Lincolnshire, that this sort of resident necessarily had an interest in the work of the force and would expect to see the policemen in action:

The 'leading inhabitants', as they preferred to be called, were merchants, corn dealers, clergymen, shopkeepers, attorneys, doctors and schoolmasters. ... They not only worked in it [Horncastle] and depended on its economic success but they lived in it, most of them in the central area, and thus were very much concerned with the quality of life there.³⁶

Indeed, in February 1874, the future Sir Pryce Pryce-Jones, who at that time lived in the centre of Newtown and could observe the two main roads from his rooms above his shop, testified during the trial of a man accused of assaulting a constable, and gave evidence that supported the police.

I heard a row and threw up my window, and saw the officers engaged in a tussle with a man. I put on my shoes and went out and there saw the defendant very excited and busy. But he was not busy in assisting the police. – rather to the contrary. The officers were very much abused that night. I never saw men acting better than they did.³⁷

When the evidence of a man such as Pryce-Jones was crucial, the police may have felt pressurised in the methods they used to deal with an incident, or indeed, whether to deal with an incident or not. It probably also influenced the routes of beats, and police pursuance of prosecutions, as suggested by an occasion when Sgt Ross found a riot going on outside Pryce-Jones's dwellings on a spring evening in 1869.³⁸ He told the magistrates: 'I noticed a great number of people drunk about Severn Street'. He managed to clear them and found that they were emanating from particular beer shops, one in particular that was alongside Pryce-Jones's building. The landlords were later charged with permitting drunkenness, and the police may have been partly motivated by a perceived need to please Pryce-Jones and neighbouring residents. This engendered a certain level of resentment as will be shown in a later section.

³⁶ B. J. Davey, *Lawless and Immoral: Policing a Country Town, 1838-1857* (Leicester, 1983), p. 46.

³⁷ *N.W.E.*, 3/2/1874.

³⁸ *N.W.E.*, 18/5/1869.

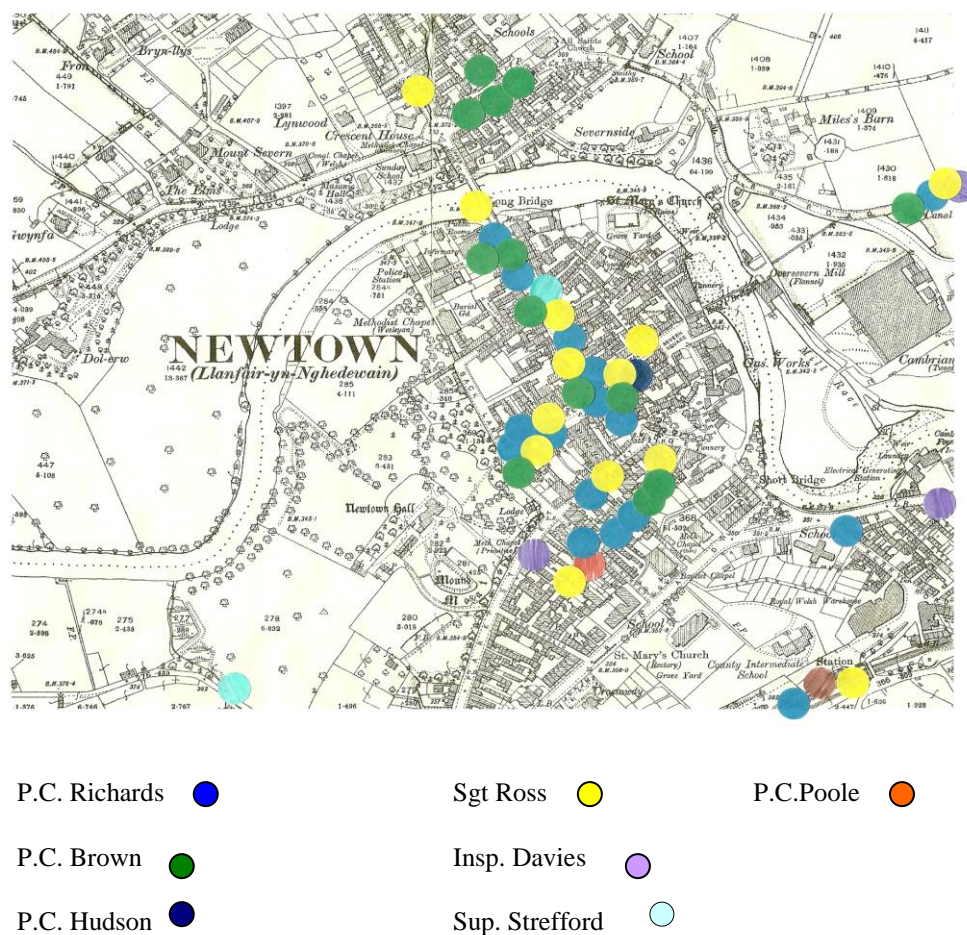


Figure 4.4: Identifiable locations of police activity, 1869-70

Police activity around town

The most active of the policemen were constables Brown and Richards, and Sergeant Ross. John Hudson, before becoming sergeant at Newtown, was stationed at Kerry, but came into town on occasions. The men sometimes worked in groups during the evening and when trying to control disorder at or near public houses. The police were in a group of three when they attended a fight at The Unicorn in August 1870,³⁹ and generally patrolled difficult or potentially dangerous areas in groups of at least two.⁴⁰ P.C. Richards was with P.C. Hudson at the railway station when an ‘elated’ man attacked him in November 1869; Richards and Sergeant Ross brought charges

³⁹ *N.W.E.*, 16/8/1869.

⁴⁰ For a discussion on nineteenth-century police methods of dealing with difficult working-class areas of London see C. Bowlby, ‘Do difficult areas need special police attention?’, *BBC History*, September 2012, p. 49.

against a militiaman found drunk in Ladywell Street in June 1870, and a few weeks later Richards and P.C. Brown were in Ladywell Street when a drunk attacked Richards with a knife.⁴¹ Richards was able to defend himself with his police-issue stave, a weapon that was proving to be a great asset to the force in quelling disorder. Richards testified at the trial of the man who baited him with reference to his plough boy background: ‘when I pulled my stave out, the assailant ran away’.⁴² The man in the knife attack was a butcher. Richards disarmed him by knocking the knife out of his hand with his stave. No injury is mentioned but it is not unlikely that the blow caused damage to the offender. There is evidence for this in the dialogue from a murder trial at the Montgomeryshire Assizes in 1906 when the arresting constable was cross examined: Lawyer: You gave him a terrific blow? P.C.: I hit him hard. Lawyer: You would hit a man hard who was coming at you with a knife wouldn’t you? P.C.: Yes. (Figure 4.5).



Figure 4.5: The suspect in the 1906 murder case swathed in bandages following a beating by the arresting officer.⁴³

Their presence in Ladywell Street may have been a particular directive from a superior officer or it may have been part of a regular patrol.⁴⁴ The constables

⁴¹ Emsley writes: ‘There were still some areas where the police did not go except in pairs. Cavanagh [a London policeman] recalled being advised by an old Irishman to keep out of the slum and cul-de-sac of Ewer Street; if there was a fight it was best to let them get on with it.’ Emsley, *The Great British Bobby*, p. 126.

⁴² *N.W.E.*, 16/11/1869; 14/6/1870; 16/8/1870. P.C. Arthur Howell Williams, Denbighshire Constabulary, was given this advice when starting his police career: ‘Think to get your back to the wall if you’re threatened. If you can’t get your truncheon out remember that your helmet is just as good for belting them with!’ I. Niall, *The Village Policeman* (London, 1971), p. 4.

⁴³ *M.E.*, 27/3/1906.

⁴⁴ Emsley describes the beats operated by the Metropolitan Police in the 1850s in *The Great British Bobby*, pp.124-5. Street patrols were being carried out in neighbouring Denbighshire

sometimes went further than the edge of town in pursuit of crime. This could be when they were on the trail of a suspect who had made off from town,⁴⁵ sometimes in response to information received,⁴⁶ and sometimes on a scheduled journey out to inspect public houses.⁴⁷

In Welshpool, known locations of incidents involving the police were concentrated around the town centre, very close to the central crossroads, the same as in Newtown. Figure 4.6 shows a policeman at the Cross in Welshpool.⁴⁸ In both towns the most common type of offence with which the police were involved was that involving working-class drunkenness, being more than seven times the figure of offences involving theft (see forthcoming Petty Sessions chapter).

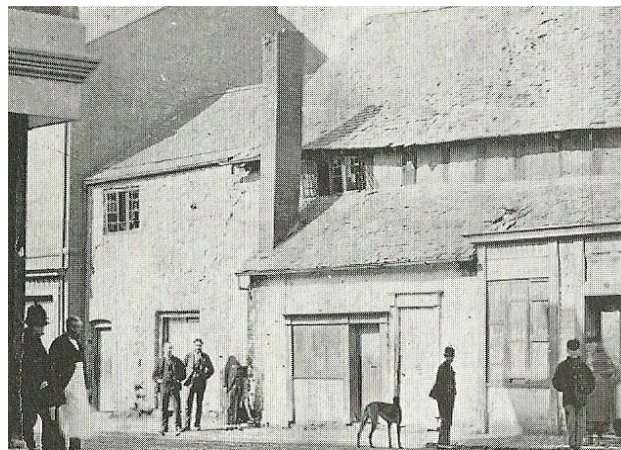


Figure 4.6: Police officer at the Cross, at the corner of Severn Street and Berriew Street, Welshpool c. 1870.⁴⁹

in the 1880s as they are mentioned in a letter date 23 June 1886: ‘...to manage any system of patrol it is absolutely necessary that we should have another officer.’ Denbighshire Record Office., DPD/2/11.

⁴⁵ For example when P.C. Richards went in pursuit of a thief (*N.W.E.*, 18/10/1869) or when P.C. Hudson followed the trail of four suspects over the county boundary into Shropshire. (*N.W.E.*, 11/1/1870.)

⁴⁶ An example is when P.C. Hudson received information of an indecent assault (*N.W.E.*, 5/7/1870).

⁴⁷ For example, on 19 July 1870 (*N.W.E.*, 19/7/1870).

⁴⁸ Police helmets were introduced in Montgomeryshire in 1869 and the timber-framed building on the right-hand side of the picture was demolished in 1876. Thus the date of the photograph means that the policeman shown is one of those studied here.

⁴⁹ Reproduction of photograph courtesy of the Powysland Museum, Welshpool.

Not only did these locations of police activity correspond with areas of commerce and therefore habitation of ratepayers as in Newtown, but also the residence of a number of magistrates. Study of census information shows that all of the borough magistrates lived in one of the main streets that ran through the centre of town. Thus, these men had first-hand knowledge of the sorts of disorder that occurred in their neighbourhood, and of police responses. It seems that they were satisfied with the men's work for the officers were rewarded with official recognition by the borough corporation, the mayor of which was the chairman of the Bench (Figure 4.7). This again would give the impression to many that the police were working for the establishment..

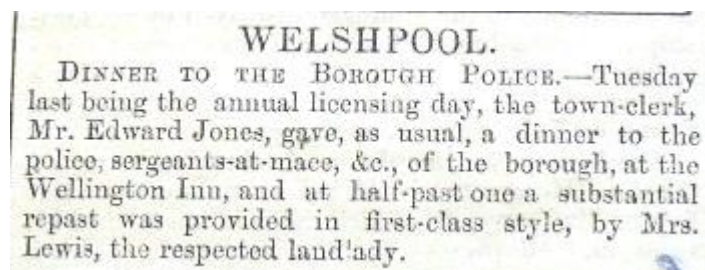


Figure 4.7: Announcement of the annual police dinner given by Welshpool Corporation, *N.W.E.*, 29/8/1871

Police work in rural and urban areas.

In the village of Berriew, drunkenness and theft were present but highway offences and offences relating to farm work were more prominent. In five of the cases, victims reported the offence to the policeman,⁵⁰ and in the others the constable himself observed the offenders and apprehended them. The manner of prosecutions before the inception of the county constabulary – where prosecutions depended on private initiative – was still apparent during the period under study.⁵¹ For example, in May 1869 Edward Gwalchmae was charged by William Waring with assault; Gwalchmae was convicted and fined. He was then charged by P.C. Sibbold of Berriew with being drunk and disorderly. At the same court, Henry Woodcock summoned John Griffiths

⁵⁰ A notable petty offender was a young lad who cut the buttons off worshippers' coats in chapel. P.C. Sibbold reported frequent complaints to him about the boy from the chapel goers (*N.W.E.*, 16/3/1869)

⁵¹ Private prosecutions continued after the establishment of the paid police force. Philips describes and discusses this in chapter 4 of *Crime and Authority in Victorian Britain*.

for assault and he, too, was convicted and fined.⁵² It is understandable that the system of private prosecution continued to take place when one considers the letter from ‘John Verniew’ quoted earlier, in which he says that the nearest police station to his parish was six miles away and a policeman visited from there once a week. In Newtown, the old way of private initiative is illustrated in a case of theft in October 1869 when a tramp stole a pair of trousers from a shop. The shopkeeper chased the man, caught him and gave him ‘a thrashing’. He later told magistrates that he intended to let the man go but some witnesses reported the matter to the police.⁵³ In this case, perhaps, the victim of the theft may have preferred the police to be less conveniently placed than they were. In a case of indecent assault, the victim did not go to the police but went herself to the magistrate to lay information and obtain a warrant.⁵⁴ That assault took place in notorious Ladywell Street, location of thieves, prostitutes and thugs who often appeared in court, and the victim considered that her complaint would not be dealt with properly by the police. Nevertheless, there were many examples to show that thirty years after the establishment of the county force, people were calling on the policemen to be peacekeepers, for example the landlord of the Unicorn in Broad Street, Newtown, who summoned the police to deal with a fight in the case mentioned earlier. There was also an expectation among some – those who had the ability to write letters to the newspaper, probably ratepayers – that policemen should be dealing with crime, as the following letter illustrates, in which the original punctuation is retained. The document also illustrates the resentment that arose when policemen appeared to favour certain residents:

It is almost a pity to find fault with a staff of policemen of fine muscular appearance and official deportment such as ours are. But I believe a policeman is required to be something more than a monument of strength! On Sunday evening, as respectable families were passing through the Cross to church or to the different chapels, a group of young fellows were congregated opposite to Mr David Thomas’s shop, chatting together with very unseemly clamour, blocking up the pathway and causing passengers to make a disagreeable detour into the roadway in order to pass them. This, I am sorry to say, is of frequent occurrence on a Sunday evening. But the most strange circumstance was that two of our constabulary were

⁵² *N.W.E.*, 4/5/1869.

⁵³ *N.W.E.*, 19/10/1869.

⁵⁴ *N.W.E.*, 23/2/1869.

“vigilantly (?) looking out for squalls” opposite to Mr Pryce Jones’s establishment, and allowing this great annoyance entirely to escape their notice. If policemen cannot detect the great nuisance in broad daylight, what inferences may not be drawn as to the condition of things when the shades of night have set in – especially when our public guardians seem to labour under the unfortunate infirmity of “having eyes” but “see not?”.

Yours respectfully, Z.⁵⁵

The ‘Mr Pryce Jones’ referred to in the letter was the future Sir Pryce Pryce-Jones, present during the incident with Mr Bryan at the Eagles Inn and who became Newtown’s second most famous inhabitant after Robert Owen.⁵⁶ The letter had the effect of changing the force’s approach to policing the centre of town, for the following edition of the newspaper contained a subsequent letter:

As one who has been frequently incommoded and driven to the middle street by groups of men and boys who made the Cross their trysting place upon a Sunday afternoon, I must confess my deep obligations to your correspondent, Z, for the mighty reform which he has been the means of accomplishing. It was the simplest yet the most effectual application I have ever witnessed. That part of the public thoroughfare on Sunday last and during the proceeding week was as little inconvenienced as any other part of the town. The “monuments of strength” as the police were facetiously called by your correspondent have to be complimented upon the good natured manner in which they took the hint and the very zealous way in which they set about rectifying the evil. A few more of these truly homeopathic doses, if as judiciously applied in other directions, would work wonders in our little town.

Yours truly, One Deeply Obligated.⁵⁷

The police thus responded to the concerns of those members of the public who had the ability to voice or pen their thoughts. Clearly, newspaper publicity had a role and influenced the police. Indeed, the following extract illustrates that the Press might

⁵⁵ *N.W.E.*, 7/6/1870.

⁵⁶ Textile Museum, Commercial Road, Newtown.

⁵⁷ *N.W.E.*, 14/6/1870.

have been manipulating the police and/or public opinion, and also suggests that the police may have been giving stories to the newspaper.

[Regarding gypsies keeping their horses overnight on other people's grassland in Welshpool] Police officer Edward Tanner and another were on duty at the Cross, these said gipsy fraternity drove their five old long-teethed screw horses down Severn Street, when Police Constable Tanner observed to the other policeman, 'Those chaps are going to put their horses into a nice bit of grass of somebody's,' and said he would see about it... Next day they were 'brought to book' and had to pay Mr Lloyd 12s. for the damage done and 10s. police fees. The occupiers of fields round the outskirts are glad of the vigilance of the police in this case.⁵⁸

The use of the Press by all concerned, as a medium of communication and as a way of changing policing behaviour deserves more notice from historians. It suggests interesting links between reporters, editors and the police.⁵⁹

Responses from the lower orders

The discussion thus far has been largely on upper middle-class experience and attitudes towards police activity. Jones has observed that much evidence about the relationship between the police and the wider public has been ignored, often by writers intending to reinforce stereotypes. However, there is evidence in reports of court proceedings that enable an investigation of this police/wider public relationship. Storch has argued that police interference in working-class areas led to resentment within that group, and we have seen that a working-class woman in Ladywell Street bypassed the police and obtained the warrant herself. However, in this study it was found that the working classes might sometimes request assistance from officers, which indicates a degree of acceptance and cooperation. For example, in December 1874 a woman was feared dead in the rough working-class area of Astley's Yard in Newtown. This was the location of known prostitutes and pimps, and the site of a serious assault a few years earlier.⁶⁰ One of the witnesses at the dead woman's inquest said:

⁵⁸ *N.W.E.*, 26/4/1870.

⁵⁹ For an example of reporter/police collaboration see Rule, *Worst Street*, pp. 128-129

⁶⁰ Discussed in more detail in the forthcoming chapter on prostitution and related crime.

I last saw her alive on Wednesday at about twelve o'clock at noon. I did not notice whether she had any fire on Wednesday but saw no fire or anything stirring on Thursday. I then became afraid that something was the matter with her ... I went and gave information to police constable Pryce, and he came and burst the door open and went in.⁶¹

The following year, a travelling draper named Charles Miller described finding a corpse:

When I went to the reservoir, one of the boys who accompanied me went to the end and called to me and said there was a man in the water. I looked and could see an object in the water. It was a man. His one hand was above the water. I came to town and informed the police. Two police officers returned with me to the reservoir, and with assistance got the body out.⁶²

Constable Crowden testified to being called to the scene of a disturbance:

On the day in question [I was] on duty at the Cross and I was sent for to go to the Market Hall Vaults, that a woman was drunk there and refused to leave.

The landlord said:

The defendant came into the vaults with her husband, evidently the worse for liquor, and began to keep a noise, and [I] ordered her out but she would not go. [We] sent for the police and Crowden came and she left with him.⁶³

This shows that methods had been established by which the general public dealt with disorder and suspicious or out-of-the ordinary events, and these methods often involved calling the police.⁶⁴ Weinberger defines one type of hostility to the mid nineteenth-century police as 'lack of co-operation',⁶⁵ but some people in Newtown at least were routinely bringing in the constabulary rather than handling situations themselves. This shows a degree of cooperation that would have helped to maintain order. However, it is true that Storch's observations about resentment of the police

⁶¹ *N.W.E.*, 8/12/1874.

⁶² *N.W.E.*, 19/10/1875.

⁶³ *N.W.E.*, 14/5/1872.

⁶⁴ See Storch's discussion in 'The policeman as domestic missionary: urban discipline and popular culture in Northern England, 1850-1880', *Journal of Social History*, 9 (1976), pp. 481-509.

⁶⁵ B. Weinberger, 'The police and public in mid nineteenth-century Warwickshire,' in Bailey, *Policing and Punishment*, p. 65.

were also noted in Newtown. Detail can be teased out of reports, giving valuable information about a mixture of attitudes within the general lower-class population, allowing social status analysis to be applied. Psychological theory suggests that in a capitalist society, people whose status is high or rising are less likely to be prejudiced (towards the police) than those whose status is low or declining. Low status and income *per se* do not lead to prejudice provided they are rising. Thus, the worried neighbour, travelling draper and landlord were likely to have had rising status.⁶⁶ The following case highlights differing attitudes towards police control.

Truncheons, handcuffs and police tactics

Much of the policemen's time was taken up with street offences, usually involving alcohol and often accompanied by violence. In February 1874, three Newtown policemen dealt with an affray in the centre of town. Constable Crowden deposed to the magistrates:

At about a quarter past eleven I was on duty at the Cross and saw the defendant who was drunk. I requested him to go home but he refused and went deliberately to a man named Alfred Francis and struck him in the mouth. I went towards him to take him into custody. He pulled off his coat to fight. I closed with him and threw him down, and police constable Jones came to my assistance and so did Sergeant Hudson. He resisted very much and I had several kicks about the legs from him.⁶⁷

Sergeant Hudson's evidence included details of an assault on himself: 'He [the defendant] was resisting them [Crowden and P.C. Edward Jones] very much. I went to their assistance and in doing so he commenced kicking me with all his might, making deliberate kicks. He kicked me about the legs and also about the face.' Hudson's recorded reply to cross-examination by the accused man – 'You were not handcuffed at the time' – intimates that handcuffs were used later, but no reference to use of staff or truncheon was made. Constable Jones noted that bad language had been used, although the exact words are recorded by blank spaces: 'I was on duty at the Cross

⁶⁶ B. Reich and C. Adcock, *Values, Attitudes and Behaviour Change* (London, 1976), pp. 50-57.

⁶⁷ *N.W.E.*, 3/2/1874.

and saw Thomas Edwards there drunk. Crowden went up to him and told him to go home. He said he would go home when the – he liked.’

Thomas Edwards resented being moved on by P.C. Crowden – moving-on being a method of crowd-control that Storch describes as being ‘perhaps the most obnoxious to [those being policed]’.⁶⁸ But why did Edwards deliberately strike factory labourer Alfred Francis? From the wording of the Crowden’s testimony, it seems that the assault on Francis was in response to being moved on. Francis may have been assisting the police, which might not be as unlikely as it sounds, for during the same incident bricklayer Edward Turner certainly did respond to a request for help from Sgt Hudson and was assaulted by a co-accused for doing so. Hudson said:

On Saturday night last I was present when Thomas Edwards was being taken to the lock up, and called on Edward Turner to assist. He was doing so, and holding Edwards’ legs. The defendant John P. Jones pushed through the crowd and ran at him [Turner] and struck him with all his might.

Thus, we have identified three groups: those who would physically resist the police, those who would assist the police, and those who would neither resist nor assist but would exact retribution on those who did assist. It is useful here to note that psychologists consider that aggression coming from prejudice requires a target that is already disliked. Psychologists also use the so-called ‘scapegoat’ theory, the basic proposition of which is that when the legitimate target of the aggression cannot be attacked, the aggression will be diverted onto targets where it is condoned or even encouraged. Thus, Turner, in the case above, was being used as a scapegoat.⁶⁹ Turner may have been a parish constable, required to assist the police.⁷⁰ It has not been possible to trace any such men in the extant records, however, in 1871, John Lewis appeared before Berriew Petty Sessions, charged with refusing to be sworn as a constable for his parish.⁷¹ Godfrey explains how the individual chosen to serve,

⁶⁸ Storch, ‘Domestic missionary’, p. 482.

⁶⁹ Reich, *Values*, p. 52.

⁷⁰ Godfrey, *Crime and Justice*, pp. 10-12; Phillips, *Crime and Authority*, pp. 59-60.

⁷¹ *N.W.E.*, 6/6/1871.

‘knowing that he would need to live and trade [in his community] after his term of office was over could find it difficult to enforce legislation.’

Examination of this case reveals another group – those who would not commit themselves in any way, these perhaps being the largest group. Various witnesses testified to a great row and a crowd, and Edwards was also charged with inciting this crowd to resist the police. Hudson testified that the accused man’s words were, ‘Kick him [Hudson], don’t let them take [the accused] away.’ However, although Edwards was convicted of this offence, and John P. Jones of assaulting Turner, no one else from the crowd was charged with any offence, so it seems that Edwards’ exhortations to the mass of people were unproductive. P.C. Crowden, too, made fruitless exhortations. He said:

‘We were nearly exhausted and required more assistance. Unless we had had assistance, we should have had to leave him go. I called on Thomas Palmer to assist. I said, “Thomas Palmer [a tin-plate worker], I call on you in the Queen’s name to assist me in taking this man to the lock up”. We were all in uniform at the time. He replied, “I cannot, I have left my shop door open”. He went away then and did not assist.’⁷²

In a situation such as this it seems hardly credible that staves would not have been used, and yet the newspaper report does not mention any weapons, and defence questioning during the trial did not produce any details about police physicality. Figures 4.8 and 4.9 show the location of the incident.

⁷² *N.W.E.*, 10/2/1874.



Figure 4.8: The incident took place in front of the buildings on the left.⁷³



Figure 4.9: Broad Street photographed from Pryce-Jones's building.⁷⁴

Evidence of the use of the truncheon is given in a report of a similar incident in 1871, again following from an officer's attempts to move people on:

It appears from the evidence of the police officer that a crowd of about thirty or forty persons had assembled outside the doctor's door on the night in question. The officer went and endeavoured to disperse them. The

⁷³ Pryce-Jones's building is the light-coloured one in the distance, from where he was able to observe the incident. Note officer on the right, staff protruding. Photograph of Broad Street, N.L.W., Aberly Collection, reproduced by permission of Llyfrgell Genedlaethol Cymru/The National Library of Wales. The absence of the market hall, which was demolished in 1875, and the clock tower, built in 1906, gives a rough idea of the date. A second photograph of Broad Street in the collection, presumably taken on the same day because the stall on the left is shown, shows costume that dates the picture to the 1870s or 80s, thus the officer is likely to be one of those discussed in this study.

⁷⁴ Photograph of Broad Street, N.L.W., Aberly Collection, reproduced by permission of Llyfrgell Genedlaethol Cymru/The National Library of Wales. The man in the foreground, far right, is Dr Frank Purchas, who came to live in Newtown in the late 1880s and died in 1909. (See R. Jones, 'Frank Utten Purchas, Montgomeryshire physician and descendant of slave traders', *Mont. Colls*, 99 (2011), pp. 83-88.

defendant [a militiaman] was there standing against the door and when the officer was persuading the crowd to disperse, the defendant said, “What the h—l are you looking at me for?” The officer replied, “You ought to have been in your billet at this time of night.” Defendant retorted, “What has that to do with you?” and then struck complainant two or three times with his fist. The officer then in self-defence struck him with his stick. Defendant rushed towards him, took hold of the stick, and cried out to his comrades: “Go into them chaps,” meaning the complainant and his brother officer, Tanner. ... The officer was cross-examined by Mr Stanier-Jones for the defence but his evidence was not at all shaken.⁷⁵

As in the earlier case, no other person from the crowd was charged with any offence, so the defendant’s attempts to incite the crowd appear to have largely been ignored. The pugnacious nature of the militiaman was apparent in his reaction to the charge being brought against him – he himself brought a counter charge of assault against P.C. Ellis, claiming that the policeman had struck him first. The magistrates, however, threw this out and fined the militiaman £5. In both of these town centre incidents, the police used their staves and truncheons in a less ferocious manner than with the tramps at the bottom of society, most commonly apprehended in out of the way locations with the officers’ actions being unobserved.⁷⁶

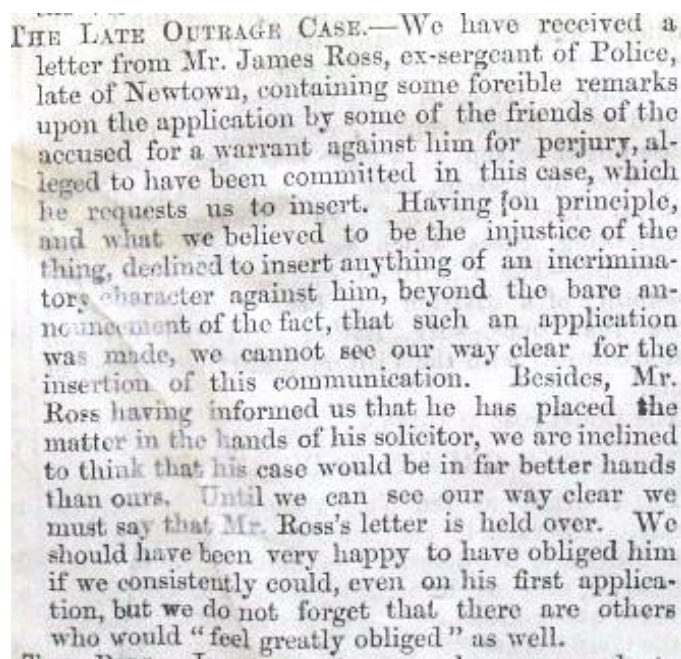
This was not the only time that a defendant turned the law onto a policeman who accused him. John Pilot appeared at the Spring Assizes of 1871 charged with rape.⁷⁷ The charge was dropped owing to the non-appearance of the alleged victim, and Pilot subsequently took out a summons against Sgt Ross, accusing him of perjury. This case came to nothing as Ross hired a solicitor and fought the charge, but it is interesting that the sergeant then left the Montgomeryshire force and moved to the Midlands where he joined the Coventry constabulary.⁷⁸ The charge brought by Pilot may have prompted the move (Figure 4.10).

⁷⁵ The defendant was lodging at the doctor’s house on The Bank, a genteel part of central Newtown. Questions arise as to whether the police were proactive in this case because there might be trouble at a middle-class person’s property.

⁷⁶ For accounts of similar events see ‘Policing the working class’ in Emsley, *Great British Bobby*, pp.148-153.

⁷⁷ *N.W.E.*, 14/3/1871.

⁷⁸ National Census, 1881.



THE LATE OUTRAGE CASE.—We have received a letter from Mr. James Ross, ex-sergeant of Police, late of Newtown, containing some forcible remarks upon the application by some of the friends of the accused for a warrant against him for perjury, alleged to have been committed in this case, which he requests us to insert. Having [on principle, and what we believed to be the injustice of the thing, declined to insert anything of an incriminatory character against him, beyond the bare announcement of the fact, that such an application was made, we cannot see our way clear for the insertion of this communication. Besides, Mr. Ross having informed us that he has placed the matter in the hands of his solicitor, we are inclined to think that his case would be in far better hands than ours. Until we can see our way clear we must say that Mr. Ross's letter is held over. We should have been very happy to have obliged him if we consistently could, even on his first application, but we do not forget that there are others who would "feel greatly obliged" as well.

Figure 4.10: Newspaper comment upon receiving a letter from Sgt. Ross.⁷⁹

Both of these men who countered police charges with charges of their own, although being among proletarian companions at the time of their arrests, were not themselves of the lowest orders. The militiaman was able to hire a lawyer and initiate proceedings, and pay his fine immediately. Moreover, lodging with a doctor suggests that he was of a higher order. John Pilot was a member of the extended Pilot family, notable merchants in Newtown. The status theory described earlier does not appear to apply here, but the militiaman's and Pilot's aggression could be explained by affront at their status being challenged by policemen.

The use of handcuffs has been mentioned. They, like the truncheons, were likely to have become worn out with use. They were used on the militiaman and on the tramps arrested by P.C. Ashton in 1871, and on Thomas Edwards in January 1874. Six new pairs were ordered by the chief constable in October 1874.⁸⁰ Their use was causing concern in some quarters, for in December 1872, the local newspaper published an account of the trial of two detectives in Lancashire who were accused of inappropriate use of them. It is unlikely that the *Newtown and Welshpool Express*

⁷⁹ *N.W.E.*, 21/3/1871.

⁸⁰ *N.W.E.*, 27/10/1874.

would have highlighted this case unless it had been pertinent at the time.⁸¹ The piece read:

The judge summed up. He said the case was important in this way and in this only: that in all the large towns in Lancashire, the number of the police bore a trifling comparison with the number of inhabitants. In some towns there were such a small number of police that if they were not protected by very important powers entrusted to them, and by the support of their fellow citizens in the jury box when they acted rightly, their lives would not be worth a day's purchase among the population with which they had to deal. ... The jury would, however, be well aware that in the profession of the police, as in every other profession, unworthy men were sometimes entrusted with great powers; and even worthy men, by the habits of their lives might be tempted into the commission of acts which neither law nor good sense could for a moment tolerate.⁸²

Response to police action sometimes involved protest in the form of support for the accused. In the summer of 1875, Thomas Jones went into the garden of P.C. John Pearson in Caersws, in search of a rabbit belonging to the vicar's daughters. Pearson saw him and had him charged with trespass. The magistrates fined Jones one shilling. The convicted man was motivated to write to the newspaper, describing the events and the actions of the local community:

Being on the ground at the time and seeing Mr Owen's children in pursuit, I assisted and went over the fencing and into the policeman's property, when he came up saying he would summons me, which he did. Such was the paltry charge laid against me that great sympathy was manifested on my behalf, for in a very short time I received a sum of money considerably more than was required to meet the demands of justice. In conclusion, I beg to tender my sincere thanks to my kind friends for the very timely assistance.⁸³

Invisible policing

Visibility was normally an essential part of the new police. It was not enough for them to do their job; they had to be seen to do it well, hence the stress laid upon their

⁸¹ For a discussion of the contribution of newspaper reporting to public knowledge and attitudes to police effectiveness see P. King, 'Newspaper reporting and attitudes to crime and justice in late eighteenth- and early-nineteenth-century London', *Continuity and Change*, 22 (2007), pp. 73-112. For information about detectives see C. Emsley and H. Shpayer-makov (eds), *Police Detectives in History, 1750-1950* (Aldershot, 2006).

⁸² *N.W.E.*, 8/12/1872.

⁸³ *N.W.E.*, 17/8/1871.

visible presence and the importance of the uniforms they wore.⁸⁴ Originally, the new police were formed in an attempt to prevent crime, and the wearing of a conspicuous uniform 'epitomized the preventative principle upon which it was grounded',⁸⁵ as well as 'being the essence of the policeman's authority'.⁸⁶ This is reflected in P.C. Crowden's words when he testified about requesting assistance in the Queen's name from Thomas Palmer: 'We were all in police uniform at the time'. Some thirty years later, when a policeman was giving evidence about his apprehension of a murder suspect near Welshpool, he said, 'I was in my police trousers'.⁸⁷ It was as if officers expected, or were accustomed to receiving, particular respect, deference or obedience when wearing uniform. However, a method of pre-empting offences and of gaining information was by dressing in plain clothes and mingling with the crowds.⁸⁸ P.C. Sibbald described his actions leading to the apprehension of a prostitute:⁸⁹

Yesterday I was on duty in this town in plain clothes. Just about 11 o'clock I saw the prisoner, and suspecting her to have come to town for an improper purpose, I watched from about that time to about 6 o'clock. She went from place to place, and eventually into the back premises of the Angel Vaults. She was looking into the stables and lurking about.

This sort of disguised policing was sometimes treated with scorn or deep concern because of its resemblance to spying,⁹⁰ and Sibbald's seven hours of observation indicate the sort of police work that led to charges of 'lounging about our streets' or 'men who do not really work for a living ... while the labourer toils from morning to night for 10s'.⁹¹ Nevertheless it was used as a crime-fighting tool from the earliest

⁸⁴ J. Briggs, C. Harrison, A. McInnes & D. Vincent, *Crime and Punishment in England: An Introductory History* (London, 1996), p. 151.

⁸⁵ Hobbs, *Doing the Business*, p. 36.

⁸⁶ Hobbs, *Doing the Business*, p. 37.

⁸⁷ *M.E.*, 5/6/1906.

⁸⁸ See H. Shpayer-Makov, *The Ascent of the Detective* (Oxford, 2011), p. 43.

⁸⁹ *N.W.E.*, 6/6/1871.

⁹⁰ Hobbs asserts: 'When this presence becomes invisible, covert and indistinguishable in appearance from the policed, it has been traditionally perceived as un-British, and therefore threatening. (Hobbs, *Doing the Business*, p. 36). For a description and comment on a particular case, see Emsley, *Great British Bobby*, pp. 56-8.

⁹¹ Storch, 'Blue locusts', p. 71.

days of the new police, as it was thought that a man in uniform would hardly ever catch a thief, and Storch describes how ‘the only way to get a case was to plant a plainclothesman’.⁹² Undercover men would be sent outside their usual areas to divisions where they were not known, as illustrated in the case above – Sibbald was stationed in Berriew but was working in plain clothes in Newtown. Thus when P.C. Poole, normally stationed in Tregynon, arrested a drunk in Newtown, it could be that he was working undercover. Although in this study, no specific community response to undercover policing could be found, in the 1906 case referred to earlier, the suspect caused a row in a pub when he suspected a sewing machine agent of being a detective.⁹³

Forensic techniques

In 1842, the Metropolitan Police founded a detective force at Scotland Yard, and it is said that Dickens based a character on one of the Yard’s detective inspectors.⁹⁴ In Montgomeryshire simple detective techniques were being used in the early days of the force, for example when P.C. Thomas Jones tracked sheep thieves by following footprints.⁹⁵ It is possible to see that techniques had developed to a degree by the 1870s as the journals of P.C. Edward Jones of Llanfyllin show, although much of his detective work was the simple tracking as seen earlier:⁹⁶

26 May 1869 9p.m.: Eagles Inn: Received information from John Edwards Eagles Inn that a drake had been Stolen from his yard since 6p.m. ellis Evans Potter and Wm Humphreys (alias cythrel) were seen in the yard are Suspected Searched their Lodgings & Bull beer shop where they frequent and i found no clue.

⁹² Emsley, *Great British Bobby*, p. 58; Storch, ‘Domestic missionary’, p. 489. In urban areas it was plain-clothes men who apprehended most criminals. Briggs, *Crime and Punishment*, p. 152.

⁹³ *County Times*, 17/3/1906.

⁹⁴ Stead, *The Police of Britain*, p. 52. According to Stead, this was the character of Inspector Bucket in *Bleak House* by Charles Dickens. C. Dickens, *Bleak House* (1853, London, 1993).

⁹⁵ Journal of P.C. Thomas Jones, P.C.A., M/SOC/7/42, entry for 6 December 1843.

⁹⁶ P.C. Jones’s journals are at the National Library of Wales, N.L.W. MS 6227D, 6228D & 6229D. Original spelling and syntax retained. Whereas the Metropolitan Police had a dedicated detective section, criminal investigations in Montgomeryshire remained in the hands of constables, as had been the situation in London during the first 10 years of the Metropolitan force. For a comment, see Emsley, *The Great British Bobby*, p. 62. See *ibid*, p. 118 for a short discussion on the regulation of a policeman’s life and the records he had to keep.

20 May 1869 6p.m.: Town: Received information from Emma Hughes Williams that a Bonnet had been stolen from her shop in the cours of the Evening. She suspected two women that had left the shop about 5P.M. from my enquiries found that they were the Daughters of william Ellis of faenog Boncyn celyn Llanfihangel went in pursuit found them near Llanfihangel with a Bonnet answering the description given in their posession took them into custod conveyed them to llanfyllin Lock-up. Gave their names Margaret Jones & Sarah Ellis both of Fawnog Rhiwlas.

Back in 1843, P.C. Thomas Jones appeared to have investigated a rape case simply by ‘making enquiries’.⁹⁷ By 1869, forensic science had moved on and chemical tests were being used; for example in 1851 a professor of chemistry in Belgium identified poisons in body tissue and a German chemist had developed a chemical test for the presence of blood in 1863.⁹⁸ In the spring of 1869, P.C. Edward Jones received information of an alleged rape, and although simple investigative methods were used at the start of the proceedings, new techniques were involved later. There was a suspect and he was taken into custody to be held there while further investigations were made. The complainant’s undergarments were received by Jones and given to the local physician. Table 4.3 shows a timeline of events.

Date	Event
24 March	Alleged assault took place
6 April	Information received by P.C. Jones; warrant obtained for arrest of suspect. Suspect conveyed to Llanfyllin lock up
8 April	Witnesses served with summonses to appear before magistrate
9 April	P.C. examined ground where assault alleged to have taken place, presumably following information given before magistrate
10 April	Prisoner appeared before magistrates and was further remanded in custody. Bail refused; undergarments received from complainant
12 April	Witnesses summonsed to appear at a second hearing before magistrates
13 April	Prisoner appeared before magistrates at Petty Sessions and committed to trial at next assizes; bail given when sureties found

Table 4.3: Timeline of events in investigation of the 1869 rape case

⁹⁷ Journal of P.C. Thomas Jones, entry for 21 August 1843.

⁹⁸ Forensics Timeline viewed at <http://www.umbc.edu/tele/canton/studentproj/May.A/timeline.htm> (15/12/2010).

The prisoner had three months to wait until his trial at the Midsummer Assizes, and it was while he was waiting that the more modern forensics emerged. First, Welshpool medical practitioner Dr Harrison examined the undergarments. Blood stains were found and, although details from the first appearance before the magistrate are not known, it was suggested that the stains had come from menstruation.⁹⁹ This is clear because P.C. Jones's wife examined the complainant, one month after the attack, for evidence of bleeding. The timeline can be continued, this time using Jones's own words to describe events (Table 4.4):

Date	Event
22 April	By orders Conveyed the Shift mentioned the 10 th inst to Docr Harrison for inspection who recommended the same to be taken to Doctor Johnson an abilival [chemical?] Profesor Shrewsbury by order of Supt Delivered the said shift to Doctor Johnson together with a letter received from Doctor Harrison Returned to Station
23 April	By orders from Spt Conveyd my Wife in a Trap for the purpose of Inspecting the Linen etc and monthly course of nature of the Prosecutrix Ellin Jones mentioned 10 th inst.

Table 4.4: P.C. Jones's timeline of events.

This forensic work would have become public knowledge at a subsequent trial. However, in due course the grand jury at the summer Assizes decided to ignore the charge, and so this important development in the application of forensic techniques remained largely invisible, known to perhaps only the police officers involved, P.C. Jones's wife and the medical men. This case is possibly remarkable, for even nearly 40 years later, the bloodstains on the murder suspect mentioned earlier were not subjected to any tests but were assumed to be those of the two victims. The degree of complexity in twenty-first century analysis of body fluids make it seem very unlikely that the professor could have made any firm conclusions about the stains on the underwear in the rape case.¹⁰⁰ Nevertheless, the fact that it seems to have been

⁹⁹ This is reminiscent of the case, nine years earlier, of Constance Kent who was accused of, and later confessed to, the murder of her baby brother. Blood stains found on a nightdress were deemed to be menstrual blood. R. Castleden, *Infamous Murders* (London, 2005), pp. 378-389.

¹⁰⁰ M. Bauer, D. Patzelt, 'Evaluation of mRNA markers for the identification of menstrual blood', *Journal of Forensic Science*. 47 (2002), pp. 1278-1282; M. Bauer, D. Patzelt,

investigated as far as possible makes this incident and enquiry noteworthy.¹⁰¹ During the 17 days from receiving the information and his wife examining the complainant, Jones travelled about 135 miles in the course of his investigations, and a further 52 miles investigating a robbery. He spent all of 6 April going to a magistrate for a warrant and walking to the home of the suspect in the rape case to serve the warrant upon him.¹⁰² This was another reason, perhaps, why individuals still investigated and prosecuted many offences themselves.

Conclusion

The county police force that existed in Montgomeryshire in the 1870s had been growing and developing since 1840. Constables were positioned strategically around the county, and were organised by a system of chief constable, superintendents, inspectors and sergeants. Local people had grown accustomed to the presence of the force, and some members of the population used them to pursue their claims for justice and recompense. These members included some from the lower orders, indicating a degree of acceptance that contradicts certain studies of working-class and lower middle-class attitudes to the police, and may be explained by analysis of their statuses.¹⁰³ The lower orders were also seen to call out the police readily when an out-of-the ordinary event occurred. There certainly was hostility from some members of the public, and occasionally the police were attacked verbally and physically, but were able to defend themselves with their staves, which appear to have been used as instruments of aggression at times. There is evidence that some ratepayers expected the police to do more in response to disorder, and yet these expectations were

‘Identification of menstrual blood by real time RT-PCR: technical improvements and the practical value of negative test results’, *Forensic Science International*, 174 (2008), pp. 54-58. Note especially the comments in Section 6 of K. Virkler & I. K. Lednev, ‘Analysis of body fluids for forensic purposes: from laboratory testing to non-destructive rapid confirmatory identification at a crime scene’, *Forensic Science International*, 188 (2009), p. 11.

¹⁰¹ Trial documents no longer exist, so any correspondence from the professor is lost. The importance of forensic techniques was recognised in Scotland throughout the nineteenth century, with a chair in medical jurisprudence being established in 1807. B. White ‘Training medical policemen: forensics, medicine and public health in nineteenth-century Scotland’, in M. Clark and C. Crawford (eds), *Legal Medicine in History* (Cambridge, 1994), pp. 145-166.

¹⁰² In Buckinghamshire in 1859, six hours per day was spent on walking, and this could be extended by an order from the chief constable. Steedman, *Policing the Victorian Community*, p. 122.

¹⁰³ David Jones identifies this contradiction in D.J.V. Jones, ‘The new police in England and Wales’, *Transactions of the Royal Historical Society*, 33 (1983), pp. 151-168.

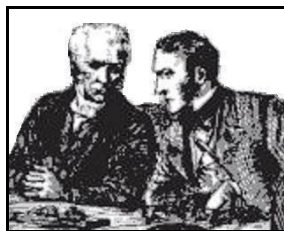
selective, and hostility was seen to come from the middle classes when the police interfered with their enjoyment of activities. The police were active, particularly in town centres, where they and the disorderly behaviour against which they acted were commonly observed by people of influence. Under-cover policing was carried out in attempts to pre-empt offences, and a naive forensic investigation undertaken in 1869 shows that a sexual offence was being taken seriously and that primitive detective techniques were being followed.

The following chapter begins a study of the courts, looking at the work of administrators of justice in the Petty Sessions, the offences with which they dealt, and the people who appeared before them.

Chapter 5

Petty Sessions

Attitudes, Discretion and Decisions



When magistrates attended Petty Sessions (or Summary Courts) they were confronted by a range of cases brought to them by members of the general public or, as we have seen, by the police. These cases could include low-value thefts or minor assaults, criminal damage or drunkenness, and a number of other offences deemed suitable for this lower court.¹ Jennifer Davis describes a platform wherein magistrates used personal inclination, knowledge of context and of offenders to deal with these matters and to maintain social order.² The following sections examine the work of the summary courts in Montgomeryshire, how the various groups within the general public used the Sessions, the value of this part of the justice system to those groups, and whether the ‘upper class conspiracy’ identified by Hay was discernable.³

¹ Described by Godfrey as ‘everyday offences’ committed by ‘everyday offenders’, B.S. Godfrey, D.J. Cox & S.D. Farrell, *Serious Offenders*. See P. King, ‘The summary court and social relations in eighteenth-century England’, *Past and Present*, 183 (2004), pp. 126-127 for a comprehensive summary of the workings of the court during the early-modern period.

² J. Davis, ‘A poor man’s system of justice: the London police courts in the second half of the nineteenth century’, *Historical Journal*, 27 (1984), p.309-335. Caution must be considered here as the metropolitan situation could be very different to Montgomeryshire.

³ See D. Hay, ‘Property, authority and the criminal law’, in Hay, *Albion’s Fatal Tree*, pp. 17-65.

The work of the courts

The Sessions saw a great deal of criminal work, of various types. Figure 5.1 shows the number of cases dealt with in each of the years under study, in all the Petty Sessional divisions. Figure 5.2 gives a breakdown of the types of offences seen.

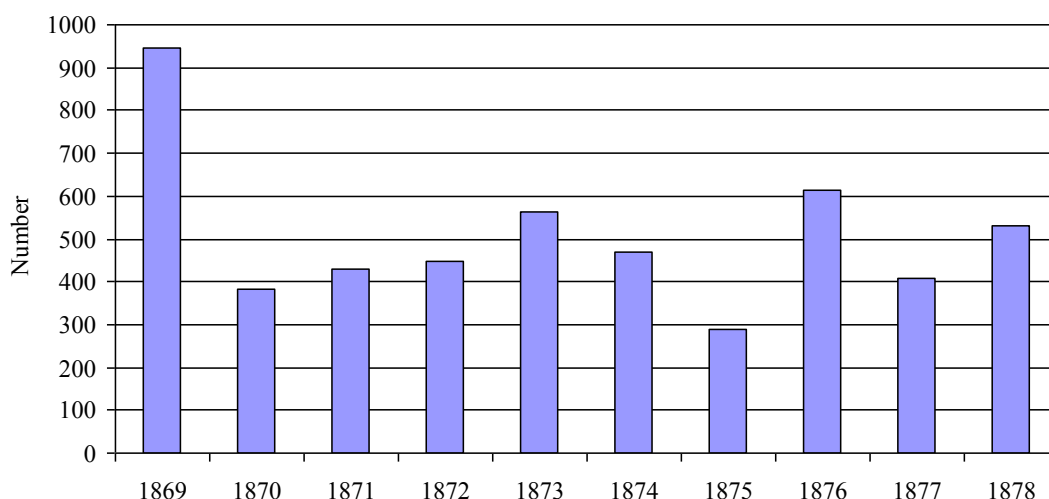


Figure 5.1: Number of cases dealt with at Petty Sessions, 1869-78 (5108 cases)

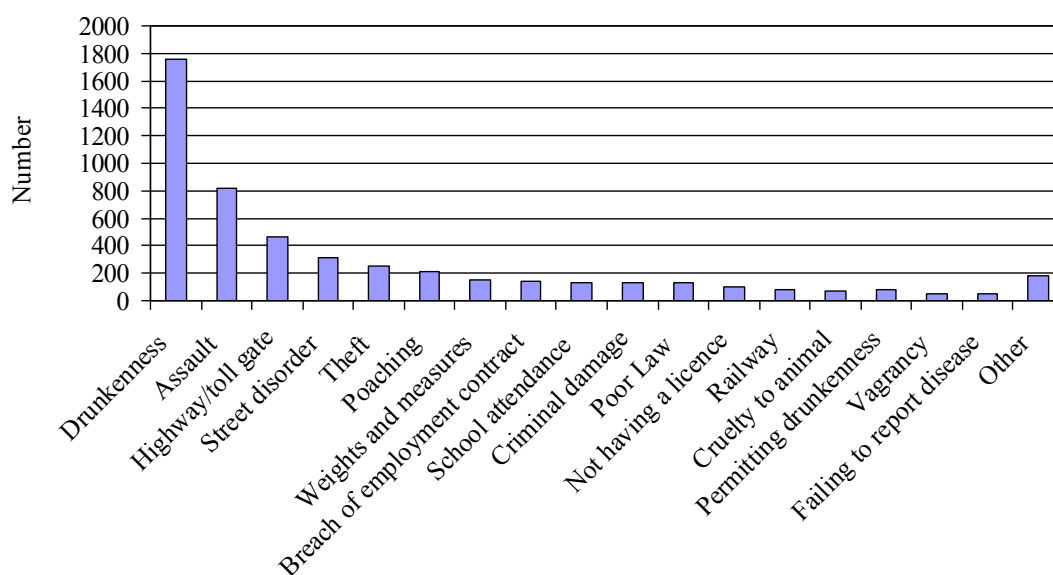


Figure 5.2: Types of offences dealt with at Petty Sessions, 1869-78 (5108 cases).⁴

⁴ The offences classified under 'other' were many and disparate, including: attempted larceny, sending a begging letter, suspected of being a deserter, allowing a pump to produce bad water, giving a false name and polluting the River Severn.

By far the most prevalent offence was that of drunkenness, being approximately equal to the next four most common offences put together. Both Bentley and Emsley acknowledge that laws extending the powers of the magistracy resulted in the increased work of Petty Sessions,⁵ but the contribution of the police must be considered, as it was they who brought the drunks to court.⁶ Peter King noted in his eighteenth-century summary-court studies, that the largest single category of offence was assault.⁷ Thus, by prosecuting drunkenness, the new police had changed the face of the courts by the middle of the second half of the nineteenth century. We have also seen how police activity was concentrated in town centres, particularly around public houses, and how the paucity of officers in rural areas may have led to an under-reporting of crime in those areas. David Jones noted the changing face of recorded crime in Wales as the nineteenth century proceeded but does not make a link to the new police.⁸ V.A.C. Gattrell, however, identified a new 'policeman state' that was visible by the period under study.⁹ The effect of the Montgomeryshire constabulary, in particular the chief constable, on Petty Sessions appearances will be considered in a subsequent section.

When the data is analysed to allow a comparison of the urban centres of Welshpool and Newtown to the less populated areas, the results shown in Figure 5.3 are obtained. They show that anyone attending court in the urban centres would have seen an array of cases composed overwhelmingly of drunkenness, street disorder and assault, giving the impression, perhaps, of a 'wild west'.¹⁰ Highway offences, school non-attendance and theft, however, were also notable.¹¹ In other parts of the county, the 'wild'

⁵ C. Emsley, *Crime and Society*, p. 209; 'Summary Trial' in Bentley, *English Criminal Justice*, pp. 19-25.

⁶ See also Godfrey's suggestion that it was police activity that brought about an increase in prosecutions of drunkenness during the period. Godfrey, *Serious Offenders*, p. 59.

⁷ King, 'The summary courts', p. 139.

⁸ Jones, *Crime*, pp. 46-7.

⁹ V.A.C. Gattrell, 'Crime, authority and the policeman state' in F.M.L. Thompson (ed.), *The Cambridge Social History of Britain*, Vol. 3 (Cambridge, 1990), pp. 243-310.

¹⁰ Note Diane Drummond's comparison of Victorian Crewe to the wild west of America quoted in Godfrey, *Criminal Lives*, p. 11. The phrase was used in the context of the United States by 1826. *Online Etymology Dictionary* (viewed 20/7/2014).

¹¹ Most theft cases were sent to Quarter Sessions meaning that the proportions were different at the higher court. This will be examined in a later chapter.

offences also dominated, but poaching, weights and measures, theft and Poor Law offences such as failing to maintain family members, were also of note.

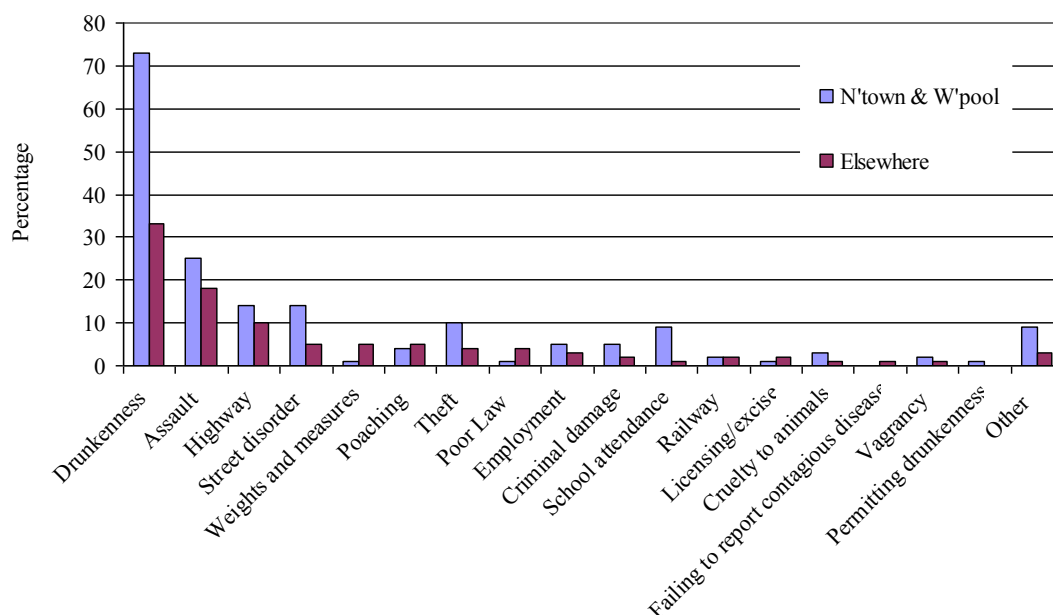


Figure 5.3: Percentages of offences occurring in the urban centres of Newtown and Welshpool compared to elsewhere

Drunkenness as a target for police activity

Drunkenness constituted about a third of the offences prosecuted at Petty Sessions in this study, and it would be true to say that drunkenness and its associated crimes formed a large proportion of cases heard at the lower courts throughout the country.¹² From the seventeenth century drunkenness was seen by some as a sin leading to crime, but during the eighteenth century, people started to see drunkenness among the labouring classes as a danger to gender roles and to family life, as well as increasing crime.¹³ It has been recognised that the main role of constabularies was controlling public order and street crime. As Emsley puts it: 'it was largely victimless offences that were open to such [police] discretion – drunkenness, prostitution, street gaming

¹² 26.4% of male convictions and 36.5% of female convictions involved drunkenness see L. Zedner, *Women, Crime and Custody* (Oxford, 1991), pp. 309 and 221. Godfrey found that in Crewe during the late Victorian age, the proportion appearing in court on drunkenness charges was also one third. Godfrey, *Criminal Lives*, p. 41. See also discussions on drunkenness, violence and young, single men in B.S. Godfrey and G. Dunstall, 'The growth of crime and crime control in developing towns: Timaru and Crewe, 1850-1920' in B.S. Godfrey and G. Dunstall (eds), *Crime and Empire*, pp. 135-44.

¹³ D. Rabin, 'Drunkenness and responsibility for crime in the eighteenth century', *Journal of British Studies*, 44 (2005), p. 457.

and street selling.’¹⁴ This is not to say that they did not have any input at all into the prosecution of offences other than public disorder as they were often involved in suspected thefts after victims reported their losses.¹⁵ The public order role was likely to be in response to the demands of those who paid their wages, *viz.* the ratepayers. It was also likely that there was pressure from the Bench, but how effective this pressure was is unclear: Jones describes how chief constables were answerable to police committees of justices, although often the chief constable ignored them. Indeed, the chief constables had the support of the Home Office, members of which objected to any attempts to interfere with police independence.¹⁶

By the period studied, drunkenness was seen not only as a cause of wider social ills but as a pathological condition inflicting physical and moral degeneracy.¹⁷ There was a push from the Church, particularly Nonconformists, for temperance with a view to addressing crime, prostitution and poverty.¹⁸ The medical profession also contributed to the debate as they saw that drunkenness was as much a product of social evils as a cause, and could be a result of an unhealthy environment. Here one is reminded of the correspondence and reports regarding unsanitary conditions that were quoted earlier. Whereas those promoting temperance campaigned that only by restricting alcohol to all would the danger of drunkenness be avoided, some physicians regarded alcoholism as a disease that required medical intervention.¹⁹ There were branches of the Good Templars Temperance Association in towns around Montgomeryshire, and Sgt. Hudson was a member of the Newtown Temperance Association lodge.²⁰ There may

¹⁴ C. Emsley, *Crime and Society*, p. 15.

¹⁵ See for example the cases of Mary Morris and Dorcas Harding which were prosecuted at Quarter Sessions. Records of the prosecutors’ recognisances are in the records at Powys County Archives M/Q/SR (Hilary 1869 and Hilary 1870 respectively).

¹⁶ Jones, *Crime*, p. 207.

¹⁷ In his paper on drunkenness in Newcastle upon Tyne in the early 1900s, Bennison marks the 1870s as the high point in UK spirit consumption. B. Bennison, ‘Drunkenness in turn-of-the-century Newcastle upon Tyne’, *Local Population Studies*, 52 (1994), p.14.

¹⁸ Temperance has been said to have reached ‘amazing dimensions’ by the 1870s. Jenkins, *A History*, p. 202. See also Evans, *History of Modern Wales*, pp. 85-9.

¹⁹ See Bennison, ‘Drunkenness’, p. 20.

²⁰ The Order of Good Templars was founded in the U.S. in the early 1850s and was brought to England in 1868, thus Sgt Hudson was one of its early members. ‘I.O.G.T.: a brief history’, at <http://iogt-ew.org/history.html> (viewed 4/1/2013). See also reports of Good Templar meetings

also have been pressure from Freemasons, who were known for a preoccupation with moral uprightness,²¹ and it was pertinent that Chief Constable Danily was a member of the Newtown lodge, having been instrumental in its foundation.²² Robert Storch found that Leeds chief constables saw themselves as ‘natural allies’ of the Temperance movement, and contemporaneously to Danily, Leeds Chief Constable Wetherell was similarly driven.²³

Constabulary attitudes towards drunkenness

Constant police efforts to clamp down on heavy drinking, and prostitution with its associated offences of petty theft and disorder, were recognised by people of the nineteenth century. Detective endeavours in this area were portrayed by Shaw in *Pygmalion*, completed in 1913 and first performed the following year.²⁴ Chief Constable Danily appeared before Newtown magistrates in April 1869 to report his dismay at the scenes of disorder his officers faced near brothels. It was reported that he planned to ‘exterminate’ the women concerned, and that he and his force had been waging a war against the trouble caused inside and near licensed premises.²⁵ Extant copies of *The Newtown and Welshpool Express* begin with 1869, and thus reports of police activity are available only from that year onwards. However, it is interesting to note that John Danily became chief in 1868,²⁶ so the high level of arrests for drunkenness and vice may well have been at his instigation, following on quickly from his appointment. Indeed, the wording of newspaper reports suggest that his offensive against such disorder was revolutionary in the county, and yet it is also true

N.W.E., 21/1/1873, 13/5/1873; 2/9/1873, 30/9/1873; ‘Temperance lecture’, *N.W.E.*, 7/12/1869; letter to the editor, *N.W.E.*, 30/9/1873.

²¹ See the introduction in H. P. Jeffers, *Freemasons: Inside the World’s Oldest Secret Society* (New York, 2005), pp. ix-xiii.

²² Report of Danily’s funeral, *M.E.*, 26/1/1915; G. Rademan, ‘The Cedewain Lodge of Freemasons’, *Newtonian*, 32 (2008), pp. 8-14.

²³ R.D. Storch, ‘Domestic missionary’, p. 485.

²⁴ L.W. Connolly (ed.), *Pygmalion* (1912, London, 2008), p. 15. The scene in which Eliza, selling her wares on the street, suspects a man who is watching her of being a detective, appears on p. 187.

²⁵ *N.W.E.*, 6/4/1869.

²⁶ Danily’s obituary, *N.W.E.*, 26/1/1915.

that a sharp increase in prosecutions for drunkenness occurred nationwide during the 1870s.²⁷

Shortly after Danily's diatribe against prostitutes, Sgt Ross attempted to sort out a disorderly public house.²⁸ In his evidence to the magistrates, he mentions women. It cannot be certain that these were prostitutes but it seems likely that at least some of them were, as the house was across the road from Astley's Court, home of Ann Lloyd and Stephen Higgs, later convicted of a serious assault on one of Lloyd's clients.²⁹ Ross deposed:

She [landlady] asked me to clear the house. I told her she must regulate her own house. ... There was a great noise in the bar. The bar I should think from its dimensions will hold six to eight persons. I cannot say who they were, there were two women there. I saw Esther Thomas there, drinking a glass of ale. She was quite drunk.³⁰ I will swear I did not tell Mrs Nock I would go after the men to the Queen's Head when she told me she had turned them out.³¹

The following year, the continued efforts of the police to eradicate such disorder were seen when the men staked out and then stormed the Waggon and Horses, near the canal basin (Figure 5.4).³²

²⁷ See graph in Godfrey, *Serious Offenders*, p.59. See also B. Harrison, *Drink and the Victorians* (London 1971), pp. 179-347 for background information on the drink question during the 1870s. The Good Templars are described as 'a pseudo Masonic organisation of the most extreme temperance zealots', p. 241. David Taylor describes how numbers of arrests for drunkenness could reflect a particular chief constable's attitudes: Taylor, *The New Police*, pp. 92-3. See also Blocker, J.S., Fahey, M. and Tyrrell, I.R. (eds), *Alcohol and Temperance in Modern History: A Global Encyclopaedia* (Santa Barbara, 2003).

²⁸ *N.W.E.*, 18/5/1869.

²⁹ *N.W.E.*, 5/7/1870. The Astley's Court area was crammed with small, terraced houses accommodating working-class people, most of them employed at the nearby flannel factories and an iron foundry, and many living in lodging houses. The area, lying along a quarter mile stretch of Pool Road, took up 35 pages of the 1871 census, exactly the sort of area described by Rule as fostering prostitution and the fencing of stolen goods. Rule, *The Worst Street*, p.78. See also Jones's comments in Jones, *Crime*, p. 195 and D.J.V. Jones, 'Where did it all go wrong? Crime in Swansea, 1938-68', *Welsh History Review*, 15 (1990), pp. 240-274.

³⁰ Esther Thomas was a pump maker's wife, living a few doors away from The Wheat Sheaf, *National Census*, 1871.

³¹ Ann Nock, wife of factory fitter Richard Nock, *National Census*, 1871.

³² *N.W.E.*, 15/2/1870.



Figure 5.4: The Waggon & Horses public house, Canal Basin³³

The landlord had already been warned by Sgt Hudson about harbouring prostitutes, but the officer described what he found upon raiding the premises on the night of 19 January 1870:

I visited the house again, in the company of P.C. Richards, and found the house to be full of people, especially in the parlour. In the parlour there were no fewer than seven prostitutes, all from Newtown, one of whom had a jug of ale before her. Another prostitute I saw with a man in a secluded place near the house went afterwards into the house. I stopped about there for some time and saw several of the prostitutes leaving the house with men, some of whom returned into the house again.

There is a similarity between these accounts and that of P.C. James James of Merthyr Tydfil who recorded in his notebook: '[I found it] full of thieves and prostitutes drinking'.³⁴ Jones observes that there was a value to the police of knowing the resorts of prostitutes and criminals because as long as they existed, the authorities had a good idea of who the criminals were, where they were and with whom they associated. Chief Constable Danily's campaign against these places, therefore, in some ways played into the hands of the very people he was trying to suppress.

³³ Reproduced with thanks to Newtown Local History Group.

³⁴ Jones, *Crime*, p. 195.

Danily went to some effort to achieve his aims in the courts. In January 1872, he attended Sessions in Caersws where seven men were charged with being drunk and riotous on Christmas day. Danily appealed to the Bench, and the newspaper reported:

He said that young men like the defendants were a great deal of trouble to the police when they [the defendants] were not at work. He pressed the Bench to make an example to others by punishing the offenders now before them.³⁵

The justices gave Danily the result he wanted: relatively large financial penalties ranging from 10s. to £2, or 14 days imprisonment in default.

Within a few years of becoming the chief, some of the local populace had begun to fear or despise him, for example Benjamin Blythe, a local man with a history of convictions for drunkenness, who appeared at Sessions in January 1875, charged with assaulting Inspector Davies. The report in *The Newtown and Welshpool Express* reads:

The inspector stated that on the day in question the defendant was ‘mad drunk’ at the Oak Inn, and as the inspector and Sgt Hudson were struggling with him, the defendant mistook the officer for Mr Danily, called him by his name and shouted, ‘Damn thee, I’ll ruin thee!’, at the same time taking deliberate kicks at the inspector.³⁶

Danily’s obituary shows that he was an Anglican,³⁷ so the zeal against alcohol and other vices often associated with Nonconformist religious groups does not seem applicable to him, but was rather a personal motivation, related to his membership of the Freemasons. His nature was expressed openly by one who knew him in a description of him written after his death. In it, the writer refers to him as ‘The Major’:

Lacking the lustre of youth, yet those eyes retained something of that sternness which in other days must have been a terror to all evil doers. They flashed something of their old fire whenever The Major was provoked to expression of righteous indignation.

³⁵ *N.W.E.*, 16/1/1872.

³⁶ *N.W.E.*, 1/1 1875.

³⁷ *M.E.*, 26/1/1915.

A photograph of Danily is shown in Figure 5.5.



Figure 5.5: John Danily (*The Montgomeryshire Express*, 26/1/1915)

A picture thus emerges of the chief constable actively pursuing drunks and prostitutes, disorder and vice, within a short time of his appointment, resulting in increased work at the Petty Sessions. An analysis of the number prosecutions for drunkenness in the county each year shows a wave formation, suggesting that build-ups of offending were regularly suppressed (Figure 5.6). The effect of Danily's vigorous actions in Newtown during 1869 are clearly seen in the 1870 result in Figure 5.7.

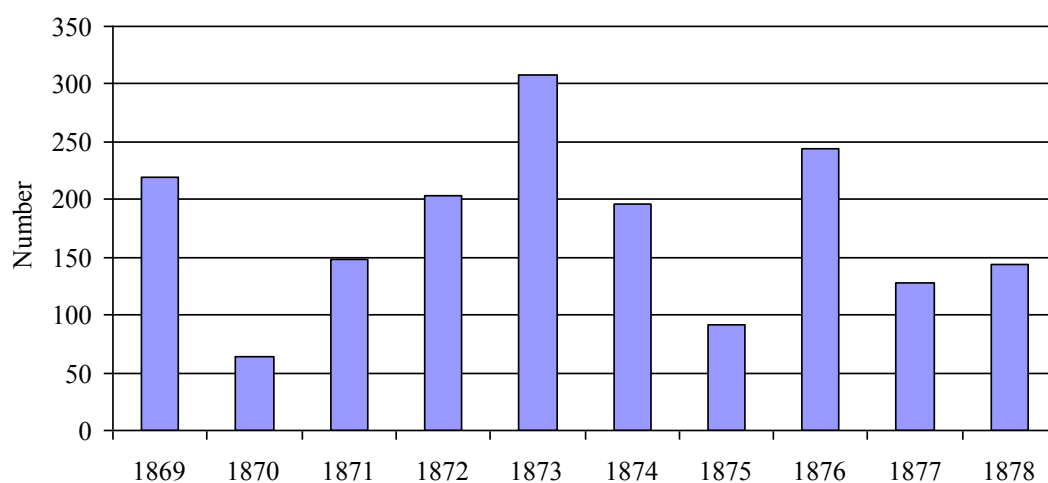


Figure 5.6: Numbers of prosecutions for drunkenness in Montgomeryshire, 1868-78 (1756 prosecutions)

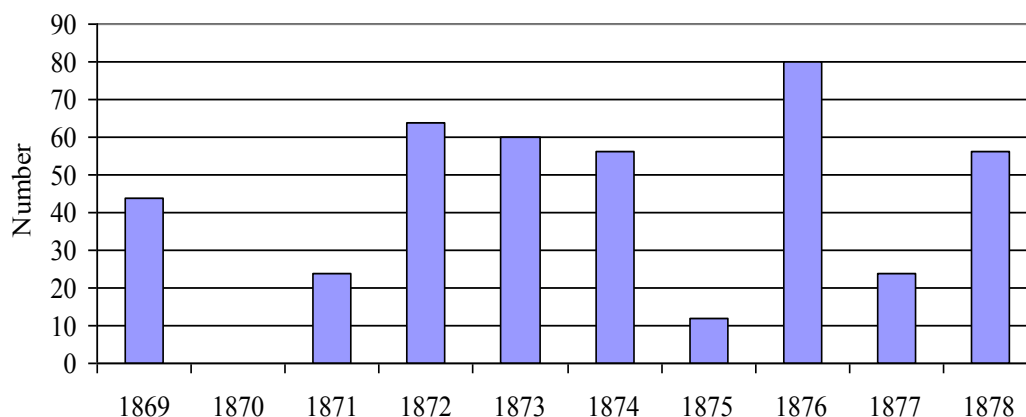


Figure 5.7: Number of prosecutions for drunkenness in Newtown, 1869-78 (420 prosecutions)

Discretion in the work of the Petty Magistrates

The chief constable appears to have followed a personal agenda in his efforts against crime and disorder. What sort of discretion did the magistrates use? These men sat singly, in pairs or often in a group of three. Opportunities for discretion were numerous as they were the sole judges. There were advantages for the defendant in that the cases were dealt with quickly, and that the penalty handed out was likely to be lower than in a higher court. However, there were concerns about the absence of ‘the great safeguard of liberty’ namely, trial by jury.³⁸

King’s analysis of decisions made by justices at Petty Sessions brings out the highly discretionary nature of the court. He describes how there were many opportunities for negotiation and choices from the beginning of proceedings through to, possibly, a trial at a higher court.³⁹ This sort of judgement was also seen in the present study. For example, at Berriew Sessions in 1872, justices John Robinson Jones and John Bayard fined drunken blacksmith John Owen £1. The previous year, Bayard and Major Corbett had fined drunken miller David Williams a mere 5s. because his employer had pleaded for a lenient sentence.⁴⁰ These are examples of the magistrates using their discretion when sentencing, and sometimes their discretion may have frustrated the aims of the chief constable. For example, in January 1870,

³⁸ See ‘Summary Trial’ in Bentley, *English Criminal Justice*, pp. 19-25.

³⁹ King, *Crime, Justice and Discretion*, p. 82.

⁴⁰ *N.W.E.*, 7/5/1872 and 9/5/1871.

P.C. Ellis of Welshpool charged prostitute Mary Griffiths with wandering about the streets with men in the early hours of a Sunday morning. The magistrates released her with a caution.⁴¹ In May 1871 P.C. Tanner charged William Rowlands of the Coach Inn, Welshpool, of permitting drunkenness but the Bench rejected the charge.⁴²

There were other cases in which justices used their discretion in a way that the police may have considered too generous. Prostitute Mary Ann Richards had a long history of offending and her first appearance in court, in March 1869, resulted in her receiving 14 days imprisonment for disorderly conduct. Later in the year she received a two-month sentence for an assault on the wife of a hawker. Her next offence received leniency when drunkenness landed her in court again. The justices noted that she had kept out of trouble for the several months and gave her a fine of 5s.⁴³ Furthermore, when prostitutes Catherine Matthews and Sarah Wilson appeared before Major Drew J.P. at his home, Milford Hall, in the salubrious west end of Newtown, both were charged with drunkenness and disorderly behaviour. However, Drew appears to have accepted Wilson's mitigation – that she had been assaulted by her client – and fined her 1s. which was four shillings less than Matthews who appears to have had no mitigation.⁴⁴ At the same appearance, prostitute Ann Jones was charged with being in town for an unlawful purpose, a charge which she denied. Sergeant Ross and P.C. Daniel Richards testified that she was well known to the police, and were confident that they had arrested the right person, but Major Drew acceded to Jones's tearful requests to give her a remand in order for her to prove her story at a later date.⁴⁵ This ready giving-in to the defendant appears worthy of further investigation, and a newspaper comment published shortly after his death confirms Drew's nature:

⁴¹ *N.W.E.*, 11/1/1870.

⁴² *N.W.E.*, 2/5/1871.

⁴³ *N.W.E.*, 30/11/1869; 8/03/1870; 15/11/1870.

⁴⁴ King, writing about eighteenth-century England, says that many rural magistrates continued to conduct what were effectively semi-private hearings, and that legal technicalities did not take pride of place. Magistrates had a tendency to base their judgements on their own unauthorised ideas of equity. However, increasing pressure from defendants, their representatives and judges encouraged magistrates to become more precise about such matters. King, *Crime, Justice and Discretion*, p. 85.

⁴⁵ *N.W.E.*, 1/02/1870. Jones was later convicted following a trial at which she was represented by a solicitor. (Also reported in *N.W.E.* 1/02/1870). Yet another show of leniency towards

With respect to the deceased it may be said that although, like all mankind, having his failings, yet the late Major Drew had many excellencies, prominent amongst which may be considered his kindness and almost fatherly care of the aged and infirm of the town... Many poor and aged persons will miss his benevolent ministrations to their necessities... It is said, and we have no reason to dismiss its correctness, that many acts of real charity, of which the world will never be the wiser, were dispensed quietly and unostentatiously at Milford House... For a great number of years the deceased occupied a seat on the Magisterial Bench of his native district, and it is only right to say that those who knew him best will give him the credit of being actuated by a desire to do justly, at the same time to love mercy.⁴⁶

King makes this point about magistrates in Petty Sessions: 'The magistrates' willingness to make concessions to the poor had an important impact on the texture of local social relations, and may have provided some important checks on the power of the middling sorts'.⁴⁷

Landowners could use their discretion when perhaps it was politic to do so, as when Canon Herbert, who usually sat in Sessions in Berriew, allowed a case of poaching on his land in the parish to be compromised upon the defendant paying costs.⁴⁸ Similarly, in November 1870, the Earl of Powis's solicitor dropped the charges against three men who had cooperated with his gamekeeper, although he did, however, proceed against the one man who would not give his name.⁴⁹ Jones explains: 'It is worth recalling here that the ideology of paternalism and deference in the countryside both permitted and demanded a certain generosity on the part of landowners.'⁵⁰ This may have been particularly the case when the land involved had previously been common. In the case of Canon Herbert, there may have been another motivation for leniency. The reverend gentleman had been elected honorary canon of Bangor Cathedral in

prostitutes was seen in May 1870 when two women who had followed the militia to Welshpool were discharged with a caution (*N.W.E.*, 17/5/1870).

⁴⁶ *N.W.E.*, 12/12/1871. Using modern parlance, some defendants might have viewed him as a 'soft touch'.

⁴⁷ King, 'Summary courts and social relations', p. 128.

⁴⁸ *N.W.E.*, 6/4/1869.

⁴⁹ *N.W.E.*, 15/11/1870

⁵⁰ D.J.V. Jones, 'The poacher: a study in Victorian crime and protest', *Historical Journal*, 22, (1979), p.829.

1855,⁵¹ an establishment that had a history of receiving Montgomeryshire tithes.⁵² Tithes were an issue that was to contribute to riots in the early 1880s,⁵³ and awareness of local sensibilities may have influenced the Canon's judgments. As Marilyn Strathern said about a later period, the idea of community implies harmony, and helps to 'legitimize the position of the middle classes'.⁵⁴ Perhaps a magisterial playing down of the impact of poaching offences helped to legitimize the landowning classes in the period under study here.

Poaching offences often appeared in court during the winter months and it was the crime that was closest to the justices as many of them, such as Canon Herbert and the Earl of Powis, were landowners and probably had sympathy for other landowners who suffered trespass and losses. In 1870, the chairman of Berriew Petty Sessions explained grudgingly that they had 'no alternative but to dismiss the case' against a farmer charged with killing a pigeon on nearby land belonging to fellow justice Ralph Dickenson Gough because of a judge's ruling.⁵⁵ This is an example of magistrates having to endorse behaviour that was at odds with that acceptable to the propertied classes. Davis explains that it was necessary to do this at times in order to continue the courts' popularity with the lower classes.⁵⁶ Their judgements may also have been influenced by political sensibilities if the persons involved were enfranchised. By 1872 voting had become secret and a disgruntled man could object with his vote.

⁵¹ Shrewsbury School Register, 1874-1908, <https://archive.org> (viewed 6/11/2011).

⁵² Jenkins, *Historical Atlas*, p. 69.

⁵³ See Smith, 'Tithe protests', pp. 134-135.

⁵⁴ M. Strathern, *Kinship at the Core: an Anthropology of Elmdon, a Village in North-West Essex in the Nineteen-Sixties* (Cambridge, 1981), p. 58; H. Newby, 'The deferential dialectic', *Comparative Studies in Society and History*, 17 (1975), p. 158.

⁵⁵ *N.W.E.*, 12/04/1870. The chairman quoted from *The Law Journal*, 32 (1863), p. 186 'A conviction cannot be sustained where a farmer under a claim of right kills a pigeon doing mischief, that is, picking up seed on his land.' Otherwise they could have imposed a fine of up to £2 above the value of the pigeon. However, see H. Stephens, *The Book of the Farm*, 3 (Edinburgh, 1844), p. 261 for the comment regarding an 1832 case in which a tenant farmer failed to prove his defence that his landlord's pigeons had been destroying his crops: 'This decision proves the fallacy of a common opinion that a farmer may shoot pigeons in the act of destroying his crops provided he does not carry them away after they have been shot. If this opinion were supported by law, any tenant that had a grudge against his landlord might lure his pigeons by various means and there shoot them and let them lie.' See also 'The eclipse of *mens rea*', *Law Quarterly Review*, 60 (1936), p. 60.

⁵⁶ Davis, 'A poor man's system of justice', p. 331.

When three young men claimed to have permission from a tenant farmer to catch rabbits on his land which he rented from Lord Sudeley, the clerk gave his opinion that the farmer could not give such permission.⁵⁷ This was essentially a crime against Lord Sudeley, and the prosecutor was Sudeley's gamekeeper. The justices were both landowners but there was no suggestion here of favour towards His Lordship. In fact the Bench openly overruled the clerk, and the defendants were discharged. The two magistrates in this case could just as easily have found the men guilty, so it could be said that the defendants were lucky in the Bench before which they found themselves. Brian Short explains how legal proceedings against trespassers and thieves of wood from a Sussex forest created a defiant feeling and seemed to encourage further offences in attempts to 'test the system'.⁵⁸ Some Montgomeryshire magistrates may have tried to pre-empt this sort of behaviour by handing out lenient sentences or dismissals. The same could not be said of some other cases, where the justices did not even adhere to the sentencing descriptors in *Stone's Justices' Manual*.⁵⁹ For example, labourer John Thomas was fined £1 for poaching; in default, he received 1 month in gaol. Poacher Thomas Smout was fined £2 on two separate occasions, and both times received a one month gaol sentence in default of payment.⁶⁰ In all three of these cases, 14 days was the maximum according to *Stone's*, and the excessive sentences may have been a reflection of the seriousness with which those particular magistrates viewed the crime or it may have been due to ignorance. There is a question over why their clerk did not advise them that they were stepping outside the law, but it is not clear from the newspaper report whether or not the clerk was present, and if he was present, who he was. According to trade directories, all the magistrates' clerks listed in Worrall's *Directory* (1874) were qualified and practising solicitors, but Bentley notes that clerks varied enormously in their industry and competence.⁶¹ Quite possibly, as with the Sudeley case, the magistrates may simply have decided not to accept the clerk's advice.

⁵⁷ *N.W.E.*, 19/1/1875.

⁵⁸ B. Short, 'Environmental politics, custom and personal testimony: memory and lifespace on the late Victorian Ashdown Forest, Sussex', *Journal of Historical Geography*, 30 (2004), pp. 480-4.

⁵⁹ S. Stone, *The Justices' Manual* (n.p., 1880), N.L.W. item number 94MA16717.

⁶⁰ *N.W.E.*, 16/11/1869; 14/10/1869; 17/05/1870.

⁶¹ According to Bentley, 'The clerk himself might know little of the law. Some had no legal qualifications at all'. Bentley, *English Criminal Justice*. p. 23.

A remarkable demonstration of discretion was shown by Llanidloes magistrates in 1872. Since the sixteenth century, English was the sole language of public administration and of the criminal law courts.⁶² However, when Welsh-monoglot hill farmer, Thomas Jervis, faced his neighbour Lewis Jerman, over a charge of criminal damage, the proceedings were held entirely in Welsh, with the required translation into English not provided.⁶³ *The Newtown and Welshpool Express* reported:

The hearing of this case caused considerable amusement in court, but being conducted in Welsh, we are not able to give more than a summary of what was so fluently stated by the complainant and defendant...Several witnesses were examined on both sides, the defendant, in a long, energetic and gesticulatory speech, which for fluency would not have done discredit to an assembly of bards, denying the charge. At first it appeared that problematic as to whether their worships had any jurisdiction in the case, but after a long hearing the Bench came to the conclusion that the offence had been committed and inflicted the penalty of 2s. 6d.⁶⁴

This means that the justices and the clerk must have been Welsh speakers. The 1891 census, in which the languages of all individuals in Wales are recorded in the form 'Welsh', 'English' or 'Both', shows that the clerk, locally-born John Jenkins, was bilingual. None of the justices was present in the census, but earlier censuses show that they were all locally-born.⁶⁵ As well as this, the justices were a physician, vicar, and factory owner employing 200 people. Thus it is possible that all of the men,

⁶² See J. G. Jones, 'The Welsh language in local government: justices of the peace and the courts of Quarter Sessions c.1536-1800', in G. H. Jenkins (ed.), *The Welsh Language before the Industrial Revolution* (Cardiff, 1997), pp. 181-206; R. Suggett, 'The Welsh language and the Court of Great Sessions, in Jenkins (ed.), *The Welsh Language*, pp.153-80. Note, however, in 1576, Sir William Gerard, the Justice of South Wales, recommended to the government that, with the appointment of a second justice to each of the four Great Sessions circuits, one of the justices on each circuit should be fluent in Welsh. Thus, the importance of the Welsh language to local justice was recognised and accepted at that time. Personal correspondence, Prof. T.G. Watkin, Bangor University (20/06/2013).

⁶³ See comment on the rule see M. Jarman, 'The Welsh language and the courts', p. 171. Note that it was not until 1993 that a law was enacted which led to Welsh being equal to English in courts. Jarman, 'The Welsh language', p. 172.

⁶⁴ *N.W.E.*, 30/1/1872. Bards kept alive the poetic forms of Welsh which could have died out after the Acts of Union. They were highly trained professionals who had undergone intense instruction in the complex poetic forms. Jenkins, *A History*, pp. 61-66.

⁶⁵ Dr Richard Woosnam, Rev. John Evans and Edmund Cleaton, flannel manufacturer.

or at least some of them, knew the participants in the case personally. Time and again, we have seen how the magistrates showed discretion in Petty Sessions. Now we have seen an example of magistrates using their discretion to suit local language needs. Thomas Skyrme says:

Some of those on the commissions were unable to stand the strain [of having to deal with Welsh language issues in court] but much credit is due to the many Welsh justices who steadfastly did their best to apply the law in what were sometimes intolerable circumstances.⁶⁶

However, the magistrates here were clearly pro-Welsh. Indeed, as they appear to have made no effort to provide a translation, it seems they were perfectly happy that the proceedings went ahead solely in Welsh and therefore unintelligible to some of the people in court. It was noted in an earlier chapter that members of the Llanidloes Bench rarely attended Quarter Sessions, possibly because of logistical reasons. However, it may have been from a rejection of the association of the higher court with the English-language system which they rejected.⁶⁷

Favour shown towards some defendants

There were two curious and seemingly inexplicable shows of discretion by Welshpool magistrates in June 1869 when Owen Jones, a blacksmith from Newtown appeared before them charged with assaulting Superintendent Strefford. The officer had been attacked, both verbally and physically, during two separate incidents on the same day.⁶⁸ In front of the justices, Strefford gave unequivocal descriptions of the events following the end of the annual militia training which began on 22 April and ended with an inspection on 17 May.⁶⁹ The men, including Jones, were paid off on 18 May and were in high spirits. 'High spirits' had not led to discretion favourable to the defendants in other cases, but here the magistrates appeared willing to be generous

⁶⁶ T. Skyrme, *History of the Justices of the Peace* (Chichester, 1991), Vol. 3, p. 40.

⁶⁷ See also a case when clerk Mr Jenkins translated a Welsh-speaker's evidence into English for the benefit of the defendant who was monoglot English, *N.W.E.*, 2/5/1872, and an occasion when the defendant made a lengthy closing statement in Welsh. *N.W.E.*, 3/9/1872.

⁶⁸ *N.W.E.*, 1/6/1869.

⁶⁹ R.J. Harrison, 'Royal Montgomery Regiment of Militia', *Mont. Colls*, 17 (1884). p. 211.

and the case was dismissed. At the same court, Sarah Coles appeared charged with stealing a petticoat from a house in Welshpool at which she and her militiaman husband had been staying during the training. Coles admitted the theft but, according to the newspaper report, the magistrates gave her the benefit of doubt surrounding the case, and the charge was dismissed. An explanation for these shows of discretion may lie in the fact that connects the two cases – that both cases involved members of the militia. The control of the militia was in the hands of the Lord Lieutenant. His role as such included recommending men for places on magisterial Benches, and recommending men to be appointed Deputy Lieutenants to assist with the running of the county militia. In 1846, the Earl wrote to a government official recommending 25 men as Deputy Lieutenants. Four of these were men who also became magistrates in due course and were still sitting during the period of the present study.⁷⁰ One of them was John Davies Corrie – who was on the Welshpool Bench with borough magistrate Thomas Bowen the day that Jones' and Coles' cases were heard.⁷¹ Thus, there is an indication that at times some magistrate 'looked after their own'.⁷²

Most complainants and their accused had to air their cases in open court. Victims of sexual assault had to describe their experiences in front of their alleged attackers and the press, and mothers and putative fathers had to discuss their bastardy cases similarly in front of newspaper men.⁷³ However, Petty Sessions – where the justices were in sole control of events – provided a forum at which magistrates could, again, 'look after their own' and give them privacy in which to describe their disputes. This was seen in January 1870, when the justices' clerk at Llanidloes accused one of the Bench of putting him in fear of personal injury. This was the same court that conducted a trial in Welsh with no translation. The newspaper reported that:

⁷⁰ Beatrice and Sidney Webb noted that the office of Deputy Lieutenant was one of 'pure social dignity', furthering the idea that many men pursued county roles related to status. S. Webb & B. Webb, *English Local Government* (London, 1963), pp. 286-7.

⁷¹ 'Lists of Deputy Lieutenants, and Correspondence', *Mont. Colls*, 16 (1883), pp. 120-121.

⁷² Godfrey and Cox identified that J.P.s 'frequently betrayed their own self-interested bias': Godfrey, *Policing the Factory*, p. 153.

⁷³ See for example Mary Ann Pugh, *N.W.E.*, 7/7/1874; Sarah Payne, *N.W.E.*, 10/1/1871; William Davies, *N.W.E.*, 7/6/1870.

After a short consultation between the Rev. J. Evans and Mr Cleaton on the Bench, they, in company with Capt Crewe-Reade, retired to a private room where, after a short time, the advocates of the respected parties were requested to join them. In a few minutes the magistrates, acting clerk, suitors and solicitors returned to the court where it was stated that the case had been disposed of privately, and the terms of the settlement were not stated in court.⁷⁴

The justices thus had a forum in which they could exercise personal discretion at will. There did not appear to be any person present who queried their actions, except the newspaper reporter whose article could be construed as a veiled criticism.⁷⁵

Consistency of sentencing

It has been shown how the police, directed by the chief constable, were focused in their aims, while the magistracy may have appeared unpredictable both in their judgements and the way in which they conducted their courts. There was also a degree of inconsistency in their sentencing in that they sometimes did not abide by the law or showed undue leniency. Sentencing patterns therefore will now be explored, with analyses enabling statistics to be compared in order to look for patterns and anomalies, and to see if anything can be deduced about the nature of the county from the level of fines handed out. Drunkenness was by far the most notable single offence, comprising a third of the total number of offences. Table 5.1 shows statistics calculated for all the Petty Sessional divisions, and includes the range of the fines imposed, the average fine and the modal value. It has to be borne in mind, however, that out of a total of 1756 drunkenness cases found in the sample studied, the value of the fine imposed is known for only 892 (51%). This is because often the newspaper report gave the fine including costs.

⁷⁴ *N.W.E.*, 1/1/1870.

⁷⁵ See comments 'Perceptions of judicial partiality' and 'The impact of judicial bias' in Godfrey, *Policing the Factory*, pp. 151-7.

	Range	Mean	Mode	No. of cases in which fine known
Llanfyllin	5s.	5s.	5s.	16
Llanfair	3s. 6d. - £2	9s. 3d.	20s.	20
Berriew	6d. - £1	7s. 2d.	5s. & 7s.	44
Kerry	5s. - £2 3s.	6s. 10d.	5s.	44
Machynlleth	5s. - £2	13s. 10d.	40s.	60
Caersws	5s. - £2.	14s. 2d.	5s.	64
Montgomery	1s. - £2	6s. 2d.	5s.	96
Welshpool	1s - £2	11s. 4d.	10s.	116
Llanidloes	1s. - £2	7s. 4d.	5s.	172
Newtown	4d. - £2	6s.	5s.	260
			Total	892

Table 5.1: Statistics related to level of fines imposed for drunkenness

None of the courts imposed a fine that was above the maximum permitted, namely £2,⁷⁶ and it is noticeable that often the modal value was 5s. The mean and mode show considerable divergence up to the number of 96 known cases. Thus, the analysis that follows takes the four Benches in which the data are most internally consistent and dependable.

For Newtown, Welshpool, Montgomery and Llanidloes, the measures of central tendency are very similar, and these Benches also show similarity between the range of fines levied. An obvious difference is the high value of fines imposed in Welshpool. Can a factor be found to explain this difference? The analysis in Figure 5.8 shows that few convicted men were given a low fine (less than 5s.) in Welshpool, but more there were given a fine over 10s.

⁷⁶ See Stone, *Justices' Handbook* (1862), p. 767.

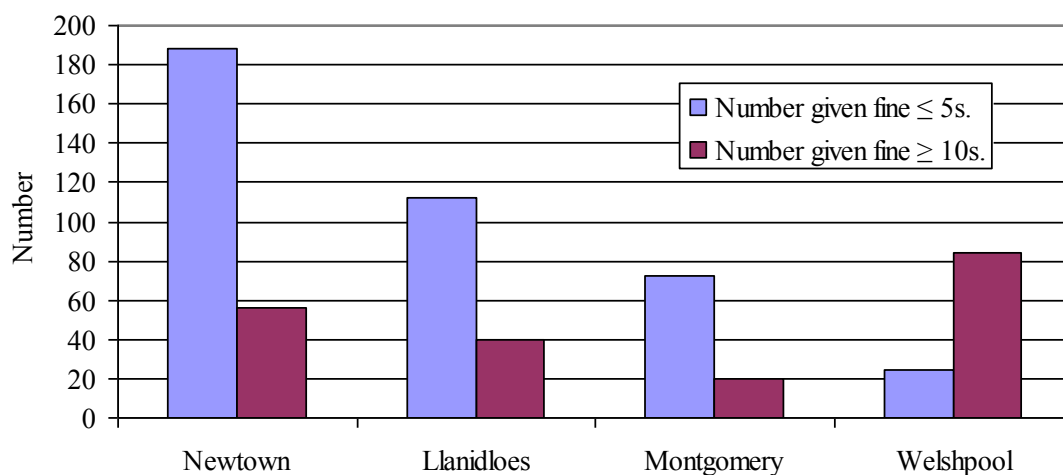


Figure 5.8: Analysis of level of fine imposed on convicted drunks

When this analysis is shown using percentages, the difference between Welshpool and the other Sessions is obvious (Figure 5.9), with fine levels in Welshpool being the opposite of the other Sessions.

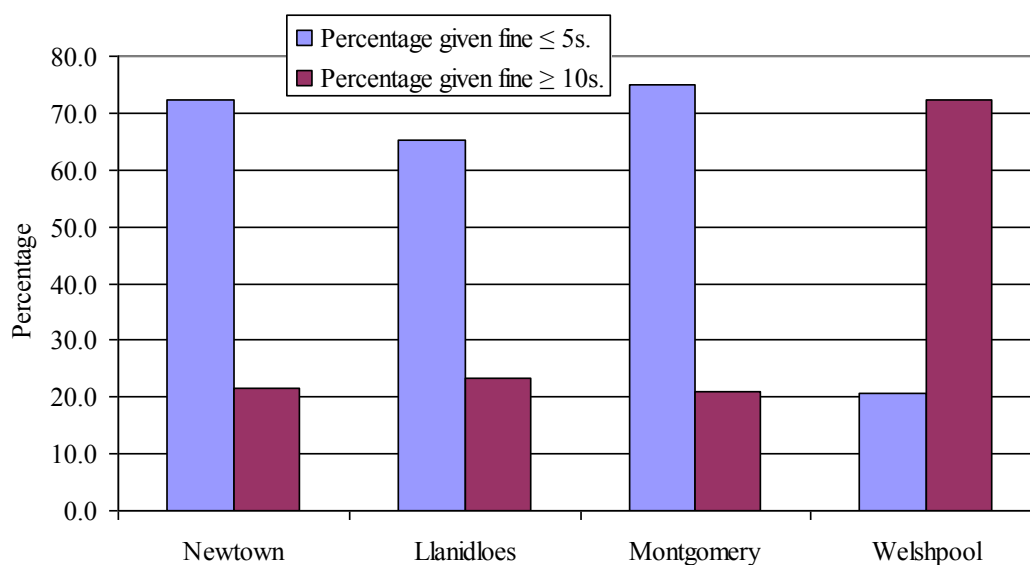


Figure 5.9: Percentage of convicted drunks given high and low fines in the various Petty Sessions

Study of the details of crimes shows that it was the same range of people offending in the different areas. Often they would be labourers, women with no given occupation, tinkers and vagrants. However, many of the middle classes, including

farmers and shopkeepers, were also charged with drunkenness. Across the Petty Sessional divisions, convicted drunks were a mix of first-time offenders and those with previous convictions. Thus, the higher penalties imposed in Welshpool may have been based not so much on the circumstances of the offence, which could be very similar, but on some other class-based criterion. This could be ability to pay, and could indicate a generally higher income in Welshpool.⁷⁷ If Welshpool J.P.s also gave high prison sentences this would point to a strict Bench in that town. However, analysis of prison terms imposed gives the results shown graphically in Figure 5.10 indicating that Welshpool magistrates were giving below the county average. The Montgomery Bench was giving slightly above. It must be said that the number of sentences involving prison was small and thus definite conclusions cannot be made. However, this investigation is supporting the suggestion that magistrates were basing their fine levels on ability to pay and that the income in Welshpool was generally higher than elsewhere in the county.

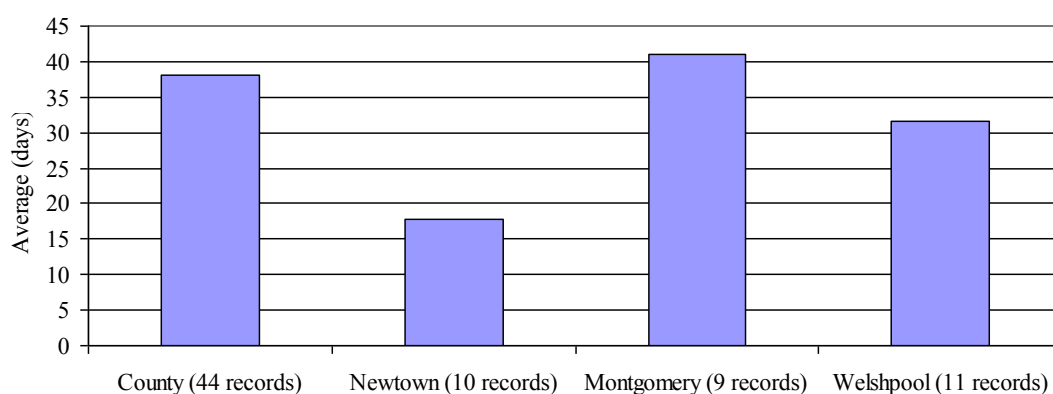


Figure 5.10: Average lengths of prison sentences

Analysis of fines imposed

Most of the people convicted at Petty Sessions received fines. Calculations involving known fines give a mean county fine of 19s. 8d. Further analysis of fines where known give the results shown in Table 5.2. Examples of cases that resulted in

⁷⁷ Level of fine based on ability to pay is the case in the modern magistrates' court, see Judicial Studies Board, *Adult Court Bench Book* (2005), pp. 3-50. The local tradition of farmers' sons marrying girls from 'down the valley' and being hard workers, rather than from 'up the valley' and being used to an easier life, reflects the more gentrified farms being at the Welshpool end (up the valley) of the county. (Personal communication, Richard Jones, Wern Ddu Farm, Aberhafesp, 12/2/2013).

finer well over the county average were that of a publican who served beer to an intoxicated person resulting in a £20 penalty,⁷⁸ and indeed publicans generally received higher fines than the drunks they served. Other examples are a veterinary surgeon who left his horse to suffer on a road;⁷⁹ and a farmer who kept a horse and groom without a licence.⁸⁰

Offence	Mean fine	Max. fine allowable according to <i>Stone's</i>	Number of cases where fine known
Permitting drunkenness/ serving at prohibited hours	£3 10s.	£10	36
Breach of employment contract	£2 9s. 4d.	£10	32
Other	£2 9s.	Various	84
No licence (mostly dog)	£1 17s. 9d.	£5	72
Poor rate	£1 16s.	Discretionary	4
Assault police officer	£1 6s. 11d.	£20	32
Cruelty to animal	£1 2s. 4d.	£5	28
Assault	18s. 6d.	£5	272
Railway	17s. 4d.	£5	44
Poaching	11s. 6d.	£5	140
Failing to report contagious disease	8s. 4d.	Various	48
Street disorder	8s. 3d.	£5	148
Highway/tollgate	8s. 3d.	£10	248
Criminal damage	6s. 4d.	£5	72
Weights & measures	5s. 7d.	£20	24
Failing to send child to school	3s. 10d.	5s. (inc. costs)	140

Table 5.2: Average fine imposed for various offences (all Petty Sessional divisions January, 1869-78)

⁷⁸ *M.E.*, 2/1/1877.

⁷⁹ *N.W.E.*, 13/5/1873.

⁸⁰ *N.W.E.*, 31/5/1870.

The penalties imposed for breach of employment contract appear high, but were usually the amount of pay owing, not a fine *per se*.⁸¹ In a similar way, poor rate penalties tended to be the amount of financial support owing. The high average in the 'Other' category can be assigned to the prosecution of the Cambrian Railway Company for four counts of failing to ensure clean pens for the transportation of animals. Upon conviction, the company received a penalty of £10 for each count.⁸² It is clear from this analysis that in Montgomeryshire fines were well below the maximum allowed which reflects the relatively low prosperity of the county. This list also shows how new laws created criminals. Prior to the 1870 Education Act, families did not have to send children to school, and it was usual for offspring to join parents at work.⁸³ Now the new legislation was changing common working practices and may have caused real hardship.⁸⁴ The justices seem to have recognised this and were sympathetic as in some cases they would not enforce payment of fines if the children attended, or while very poor families sought assistance from the Poor Law guardians.⁸⁵ According to Clive Emsley, it was recognised that these parents were not criminals in the accepted sense, and this explains why justices were sometimes willing to be accommodating.⁸⁶

⁸¹ Amount recoverable was allowed up to a maximum of £10 (Stone, *Justices' Manual* (1862), p. 769). See also D. Hay, 'England 1562-1875: The law and its uses', in D. Hay and P. Craven (eds), *Masters, Servants and Magistrates in Britain and the Empire* (London, 2004), pp. 59-116.

⁸² *M.E.*, 14/5/1878.

⁸³ Three are good summaries of nineteenth-century educational provision in Montgomeryshire in Phillips, *A View*, pp.150-9 and L. H. Williams, 'Education' in Jenkins, *Historical Atlas*, p. 85.

⁸⁴ This could be analysed using the modern concept of 'strain theory'. The families' opportunities for earning money was reduced leading to criminal avenues being followed to gain the desired goal. See R. White and F. Haines, *Crime & Criminology* (1998, Oxford, 2002), pp. 52-71.

⁸⁵ See for example, Newtown Petty Sessions, *N.W.E.*, 16/5/1876 and 'school board prosecutions,' *N.W.E.*, 20/1/1874. See S. Auerbach, 'The law has no feeling for poor folks like us!': everyday responses to legal compulsion in England's working-class communities, 1871-1904', *Journal of Social History*, 45 (2012), pp. 686-708 for a discussion on how working-class parents dealt with the authorities regarding school attendance.

⁸⁶ Emsley, 'Mother, What Did Policemen Do?', p. 360. The criminality described here could be analysed using the modern concept of 'strain theory'. The families' opportunities for earning money was reduced leading to criminal avenues being followed to gain the desired goal. See White, *Crime & Criminology*, pp. 52-71.

Bind-over orders

Most of the sentences, about 90 per cent, handed out by Montgomeryshire magistrates were fines. A small proportion of assault and disorder offences received bind overs, and on two occasions, petitioners applied for bind-over orders to be imposed on alleged trouble makers. In modern terms, such a restriction is defined as ‘not a punishment but is to prevent apprehended danger of a breach of the peace’. The order must be for a specified fixed period and involves a financial bond. Furthermore, there has to be sufficient information before the court to justify the conclusion that there is a real risk of a breach of the peace unless action is taken to prevent it, and the alleged aggressor has to agree to the order.⁸⁷ No such definition existed in nineteenth-century terms,⁸⁸ although Judith Rowbotham has discussed the readiness of magistrates to impose a bind over because of apparent ‘magic effects’ of the scrutiny of the community.⁸⁹ An investigation now follows in order to discern the nature of the bind-over order in nineteenth-century Montgomeryshire.

Looking firstly at those assaults which received financial or custodial penalties, sometimes the offence took place in the presence of witnesses, and occasionally resulted in a visible injury. Usually the two parties did not have a familial or neighbourly relationship. Examples are shown in Table 5.3.

⁸⁷ *Adult Court Bench Book*, p. 3-110. There is also the Restraining Order which does not involve a bond.

⁸⁸ Personal correspondence, Clive Emsley, 18/2/2013.

⁸⁹ J. Rowbotham referencing the work of A. C. Plowden in ‘Turning away from criminal intent: a reflection on Victorian and Edwardian strategies for promoting distance amongst petty offenders’, *Theoretical Criminology*, 13 (2009), pp. 115-6.

Date reported	Details	Sentence
05 Oct 1869	Woman claimed another hit her with fist and used abusive language in the street following words about a wheelbarrow. Two witnesses for each side.	Fined 6d. and costs.
05 Oct 1869	Woman said that another threw scalding water over her. No witnesses. Altercation between two took place in court, halted by magistrates.	Fined 5s. and 8s. 6d. costs or 14 days imprisonment
05 Oct 1869	Old man was set upon by a group of youths. Identified Lewis as one of them. Various familial witnesses confirmed Lewis elsewhere at time. No independent witness for prosecution. Assault deemed proven.	Fined 10s. and 9s. 6d. costs. Allowed 1 week to pay otherwise 14 days inside.
19 Oct 1869	Unspecified woman-on-woman street assault. Witness called to prove the assault.	Fined 1s. and costs or 7 days imprisonment
17 Jan 1871	Man assaulted wife by beating around head. Pattern of behaviour when drunk. No independent witnesses.	Fourteen days hard labour
20 May 1873	Woman toll gate keeper assaulted by lessee of gate who wanted her out. Independent witness did not appear. Assault deemed proven.	10s. fine plus costs
20 Jan 1874	Employer assaulted first young employee then boy's mother. Independent witnesses including physician.	£5 and costs

Table 5.3: Examples of assaults receiving financial or custodial penalties

Typically, the details of the assaults that received bind overs were very similar to those receiving other penalties, but whereas a fine or prison sentence was given to only one of the parties, the binding over was often given to both. The impression given by this is that the justices regarded the pattern of behaviour deserving a bind over to be more of a quarrel, with each side being as culpable as the other (see Table 5.4).⁹⁰

⁹⁰ See P. King, 'Punishing assault: the transformation of attitudes in the English courts', *Journal of Interdisciplinary History*, 27 (1996), pp. 43-74 for a discussion of early modern treatment of this sort of offence.

Date reported	Details	sentence
18 May 1869	Man accused of throwing stones at complainant. Defendant said claimant had thrown a brick at him. Witness said claimant started it. Claimant said offences had been going on for six months.	Defendant bound over to keep the peace for 6 months, £5.
16 Nov 1869	Claimant saw defendant at public house. Said defendant used abusive language then struck him. Witness said it seemed to be self defence. Single incident.	Case dismissed but both bound over to keep peace for six months.
4 Oct 1870	Wife beating. Pled guilty but promised to be of good behaviour	Bound over for 1 month or else one month inside.
30 May 1871	Woman allowed cows to stray onto second woman's land. Words exchanged	Both bound over for six months. £5 each.
21 Sept 1875	Unspecified man-on-man assault. No witnesses	Both bound over for 6 months. 4s. bond.
15 May 1877	Father claimed that son struck him. No independent witnesses.	Both bound over for six months.
1 May 1878	Two men accused each other of street assault. No independent witnesses.	Both bound over for six months
16 May 1878	Women neighbours. Each claimed the other struck her with a gate.	Both bound over. No length reported.

Table 5.4: Examples of assaults receiving bind-over orders.

The bind-over order used in cases of domestic assaults

During the nineteenth century domestic violence against women became increasing unacceptable and in 1878 the Matrimonial Causes Act gave magistrates the power to order the separation of an abused wife from the abuser, and order him to pay maintenance. Later, the Summary Jurisdiction Act of 1895 allowed the wife to obtain a separation order.⁹¹ Analysis by D'Cruze of one murder case from 1864 shows that at this time a court was already demonstrating attempts to 'place violence against wives beyond the pale of respectability.'⁹² In December 1870, John Jenkins, a journeyman

⁹¹ Godfrey, *Crime and Justice*, p. 63.

⁹² Quoted in *Crime and Justice*, p. 64. For a good discussion of this topic see A. Clark, 'Domesticity and the problem of wifebeating in nineteenth-century Britain: working-class

tailor living with his family in Albion Yard in Newtown appeared in court charged by his wife with abusing her. The man asked the Bench if they would order him to pay a medium amount of maintenance to let him be free of his wife.⁹³ The magistrates were unable to accede to this, but it was appeals to the Bench such as this that led to the 1878 Act being passed eventually. Mrs Jenkins was not in court and Bench chairman, Canon Herbert, ordered that both parties appear in court again so that the situation could be addressed. The reappearance took place two weeks later, but Mrs Jenkins was not disposed to prosecute. Consequently, the case was dismissed but Canon Herbert did give Jenkins a caution. Davis explains that it was common for applicants to overrate the magistrates' legal powers to intervene in domestic disputes. They often showed a mistaken belief that the justices could make protection orders or grant a divorce or separation as in the Jenkins case.⁹⁴ Emsley explains that a wife often did not want to proceed because a husband imprisoned or fined would mean financial difficulty for the family.⁹⁵ Davis also describes how the imposition of a bind-over order was often at the request of the wife and mentions fear of retribution upon release as a woman's motivation for not wanting her husband to be imprisoned. Sometimes the woman hoped that merely the appearance in court would have a deterrent effect on the man.⁹⁶ The man who received the bind-over order for assaulting his wife (Table 5.5) was not punished by the court by any fine or term of imprisonment.⁹⁷ The Bench may have taken into account this man's promise to be of good behaviour in the future.⁹⁸ However, the penalty for common assault in the late nineteenth century was a fine of up to £5, or up to two months imprisonment without a fine.⁹⁹ At that time there

culture, law and politics' in S. D'Cruze (ed.), *Everyday Violence in Britain, 1850-1950: Gender and Class* (2000, Harlow, 2004), pp. 27-40.

⁹³ *N.W.E.*, 6/12/1870.

⁹⁴ Davis, 'A poor man's system of justice', p. 322.

⁹⁵ Emsley, *The English and Violence*, p. 64.

⁹⁶ Davis, 'A man's system poor of justice', p. 322. See also N. Tones, 'A torrent of abuse': crimes of violence between working-class men and women in London, 1840-1875', *Journal of Social History*, 11 (1978), pp. 333-4.

⁹⁷ *N.W.E.*, 4/10/1870.

⁹⁸ Modern guidelines indicate that magistrates may give a suspended sentence if the defendant shows a genuine willingness to reform his or her behaviour. *Adult Court Bench Book*, p.177.

⁹⁹ Twenty-first century domestic assaults often are treated as common assault but there are supplementary guidelines including consideration of the history of the relationship and patterns of behaviour. *Adult Court Bench Book*, p. 177.

was also the charge of aggravated assault against a female available to the Bench, and this was punishable by a fine of up to £20 or six months imprisonment. The sentences imposed in this case show that the sentencing directions in *Stone's* for assault were not used,¹⁰⁰ but the magistrates may have considered that the restraining effect of the bind over may have been a better protection for the woman than a one-off fine or period of custody. It also is clear that sometimes the justices considered a domestic assault to be something removed from other types of violence, something that needed to be dealt with differently. We see this in the judgement of the Berriew Bench when they allowed such an assault to be compromised on the defendant paying costs 'as it was a family affair'.¹⁰¹ The following year, the same phrase was used in a different Petty Sessional division, when a man's assault on his sister in law was given a low fine.¹⁰² The chairman in both cases was John Robinson Jones, suggesting that this was his personal opinion.

Godfrey, Farrell and Karstedt found that women were half as likely as men to receive bind-over orders for assault.¹⁰³ In the Montgomeryshire cases studied here, the ratio was even more pronounced as shown in Figure 5.11. This may have been a reflection of the women's inability to find the sum required, which was considerably higher than the level of a fine. If this is the reason, then again it is an illustration of the justices using their local knowledge and discretion. Godfrey *et al* accept that a woman's economic situation was a gender-associated factor that might have contributed to sentencing outcomes.¹⁰⁴ An illustration of this that is pertinent to the present discussion is the case of Mary Horley, charged with using threatening language towards her sister. Horley was unemployed and living on her married sister's charity. She was unable to pay the bond required for a bind over, so in default

¹⁰⁰ King states that as summary court decisions were rarely scrutinised, it is easy to be misled by the guidelines given in legal handbooks. King, *Crime, Justice and Discretion*, p. 82.

¹⁰¹ *N.W.E.*, 19/8/1869. For discussions on this topic see L. Ryan, 'Publicising the private: suffragists' critique of sexual abuse and domestic violence', in L. Ryan and M. Ward (eds), *Irish Women and the Vote: Becoming Citizens* (Dublin, 2007); M. May, 'Violence in the family: an historical perspective' in J.P. Martin (ed.), *Violence in the Family* (Chichester, 1978). See also Tomes, 'A torrent of abuse', pp. 338-40 for discussion on how individual magistrates' views influenced sentencing in domestic abuse cases.

¹⁰² *N.W.E.*, 3/5/1870.

¹⁰³ Godfrey, 'Explaining gendered sentencing patterns', p.702.

¹⁰⁴ Godfrey, 'Explaining gendered sentencing patterns', p.714.

was removed to custody for three months.¹⁰⁵ By giving the bind over, which they knew she could not pay, the magistrates were in effect giving custody as the sentence.

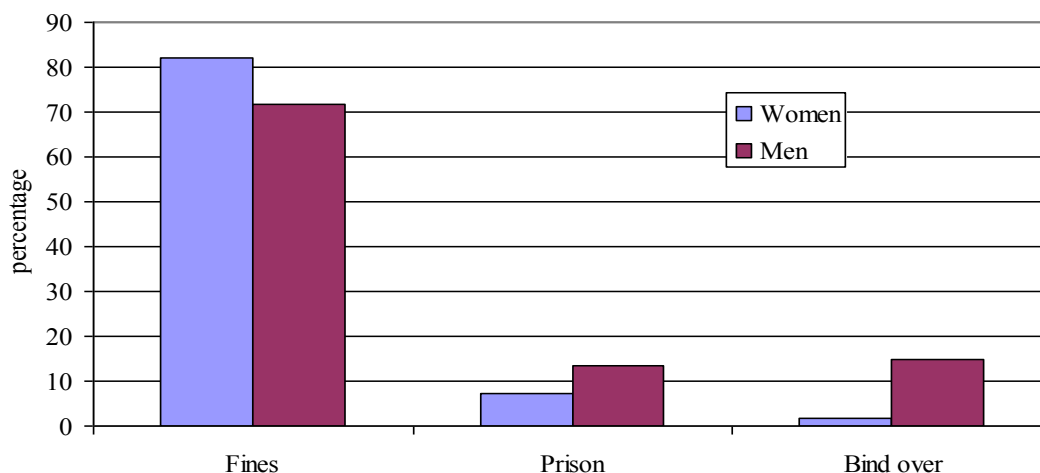


Figure 5.11: Ratio of male to female defendants receiving particular sentences for assault (452 men, 112 women)

As far as disorder was concerned, the impression of an *ad hoc* approach to the handing out of sentences appears. For example, four men fighting at a railway station were fined by Caersws magistrates, but two men fighting in Llanfyllin were both bound over.¹⁰⁶ A Montgomery woman who threatened to dash her neighbour's brains out was bound over for six months, but a Welshpool woman who used obscene language towards another was fined.¹⁰⁷ Newspaper reports do not carry the details of the offences so it is impossible to make certain conclusions about seriousness of the incidents. The nature of Petty Sessions as a forum where the justices had sole discretion and ability to bring in their own sensibilities and experiences when making judgements is again apparent. It is possible now to give a definition of a bind-over order in nineteenth-century, Montgomeryshire terms: that such orders were imposed in cases where a continuing pattern of violent offending was occurring, with contributing factors coming from both parties, or when the supervisory nature of the order may have had a helpful restraining effect. They were sometimes imposed for one-off incidents of street disorder, and often took the place of a financial or custodial

¹⁰⁵ *N.W.E.*, 28/5/1872.

¹⁰⁶ *N.W.E.*, 21.12.1869 & *M.E.*, 15/1/1878.

¹⁰⁷ *M.E.*, 1/1/1878 & *N.W.E.*, 28/5/1872.

sentence, particularly for assaults involving family members. They were occasionally used as a roundabout way of imposing custody.

Consistency when sentencing to imprisonment

Periods of incarceration were often imposed when a convicted person defaulted on payment of a fine, and Mary Horley received imprisonment when she was unable to find a bond. Prison as an initial sentence was less common, with 152 persons receiving custody for a range of offences including drunkenness, assaulting a police officer, pick-pocketing and vagrancy. What was it about these cases that made them deserving of custody?

Richard Hughes was already a well-known face when he appeared in court in Montgomery in January 1869.¹⁰⁸ He received seven days for his drunkenness on this occasion, and was to see the interior of Montgomery gaol again for the same offence in 1871 and 1872.¹⁰⁹ His repeat offending seems to have made his crime worse in the eyes of the justices, as five drunkenness charges against other people at the same hearing resulted in minimum fines. Hughes was described as having the alias ‘Dick Luney’, intimating that his pattern of behaviour was recognised locally as being particularly eccentric, with his noticeable behaviour making him a special case.¹¹⁰ The period he received was the length allowed for default of a small fine, which gives an indication of how serious the Bench considered his offending to be.¹¹¹ Alfred Owen had already received several convictions for drunkenness when he was charged at Welshpool Sessions in 1875. He did not appear to answer this time, and in his absence was given 21 days, presumably to be arrested on a warrant.¹¹² Richard Jones appeared in court on a drunkenness charge for the 49th time, and received one month in gaol.¹¹³ Thus, as far as drunkenness was concerned, prison was being used almost as a ‘last

¹⁰⁸ *N.W.E.*, 20/7/1869.

¹⁰⁹ *N.W.E.*, 17/1/1871; 10/9/1872.

¹¹⁰ See M.A. Riva, L. Tremolizzo, M. Spicci, C. Ferrarese, G. De Vito, G. C. Cesana, V. A. Sironi, ‘The disease of the moon: the linguistic and pathological evolution of the English term “lunatic”’, *Journal of the History of the Neurosciences*, 20 (2011), pp. 65–73.

¹¹¹ Stone, *Justices’ Manual* (1862), pp. 766–7.

¹¹² *N.W.E.*, 19/1/1875.

¹¹³ *N.W.E.*, 19/9/1871.

resort' for repeat offenders, suggesting that the magistrates considered custody to be the most onerous of penalties. This is seen in their use of prison as a threat when they gave Charles Benbow a 5s. fine and told him that if he defaulted, he would be sent inside for 14 days. They were speaking outside the law here, however, as the maximum term of incarceration permitted for default of this amount was 7 days.¹¹⁴ The same magistrates had got the sentence right a year previously, when they threatened Sarah Beedles to 14 days in default of the higher fine of 20s.¹¹⁵ and when they threatened to send Ann Jenkins to gaol if she appeared before them again charged with being drunk and disorderly.¹¹⁶

The Newtown Bench expressed their desire to protect the police when they sentenced Samuel Davies to a month in gaol for an assault on P.C. Rees, although at the same Sessions they sentenced Benjamin Blythe to a 40s. fine for an assault on Inspector Davies.¹¹⁷ There were differences in the nature of the offences in that Davies had launched a deliberate attack, bitten the officer, inflicted a serious wound and subsequently absconded, whereas Blythe had mistaken the inspector for Chief Constable Danily and was now very contrite. William Pryce was given two months with hard labour for a knife attack on P.C. Richards in Newtown. Thus, a pattern is appearing of heavy sentences for attacks on policemen, and indeed out of 14 incidents of such assaults, 13 received gaol sentences or fines of at least 10s. The one exception was a miner who attacked and beat up Sgt Owen in Llanidloes and received a 5s. fine, equivalent to a first-time drunk's fine for disorder.¹¹⁸ It is unclear from the newspaper report why such a low-level fine was imposed.

David Phillips discusses the processing of larceny cases, with an emphasis on Quarter Sessions, but mentions briefly that by the 1850s, Petty Sessions were dealing with many larcenies.¹¹⁹ The Montgomeryshire courts show the range of thefts that

¹¹⁴ *N.W.E.*, 5/9/1871.

¹¹⁵ *N.W.E.*, 31/5/1870.

¹¹⁶ *N.W.E.*, 19/1/ 1869.

¹¹⁷ *N.W.E.*, 18/1/1875.

¹¹⁸ *N.W.E.*, 13/5/1873.

¹¹⁹ Phillips, *Crime and Authority*, pp. 177-219.

could be dealt with, and Table 5.5 summarizes the lengths of custody that were handed out. On the whole, more valuable items received longer periods of custody but there are a few anomalies.

Offence	Length of sentence
Picking pocket (unspecified item); theft of £11 12s.; stealing equipment worth £4	3 months
Stealing coal worth 10d.; shirt; organ grinder's monkey; items of mercery; stealing £22	1-2 months
Theft of trowel; seven rose bushes; theft by finding of donkey; theft of plasterer's tool; half a pound of butter; mittens and sickle worth 3s.; oats; £1 4s.	7 days

Table 5.5: Range of stolen items and the sentence received at Petty Sessions January, May and September 1869-78

It seems unreasonable that the theft of coal worth 10d. should receive the same sentence as stealing £22, but on studying the facts of the cases, the coal theft involved a degree of subterfuge and betrayal of an employer's trust.¹²⁰ The man who took the £22 from his grandfather left a letter telling of his plans but the old man did not see it until after the matter was in police hands. The magistrates described it as a 'very peculiar case' and wanted to inflict the smallest penalty.¹²¹

The magistrates thus showed a great deal of discretion in their judgements, as found by Jennifer Davis. They did not generally show the same determination as the police in pursuing prosecutions, and there are instances where both consistent and inconsistent approaches to judgements and sentencing were apparent.

¹²⁰ *N.W.E.*, 3/9/1872.

¹²¹ *N.W.E.*, 17/9/1878.

Locals' use of the courts in pursuance of particular causes

It has been shown how the Montgomeryshire police used Petty Sessions to pursue their campaign against disorder, and that the Bench had sole discretion in judgements and sentencing. Those members of the public who appeared in court in the various roles of prosecutor, defendant, witness or spectator were not, however, simply the bit-players in the action around them. Davis's work on London police courts, and King's work on eighteenth-century summary courts in south-east England, paint vivid pictures of the working classes obtaining justice and advice, hardly enduring the 'ruling class conspiracy' against them described by Hay.¹²² In Montgomeryshire a similar scene emerges. When Ann Griffiths was threatened by her neighbour over their use of a shared bread oven, she firstly went to their landlord to try to resolve the situation. Later, when the neighbour physically assaulted Griffiths, and thus when the dispute involved criminal actions, Griffiths sought the protection of the law.¹²³ She obtained a summons for the arrest of the neighbour and the pair appeared before Canon Herbert and Capt. Crewe-Reade. Her obtaining of the summons may have been at the suggestion of her landlord. From the court appearance, Griffiths obtained compensation, and the neighbour was given a fine but went to gaol in default. This is an example of local people using the easily accessible local courts to achieve satisfaction and recompense.

The lower orders also had the confidence to misuse the system for their own ends, and this was recognised by the justices themselves. After labourer's wife Sarah George failed to appear to prosecute her case of alleged assault by a neighbour, magistrate Charles Thruston observed that it was a common practice for people to take out summonses for the purpose of bullying or frightening, with no intention of appearing.¹²⁴ It is clear that often prosecutors were using the courts to sort out their disputes, for disagreements were often aired before the Bench. Charge and counter-charge were frequently seen, and often involved neighbours. For example, in September 1870, the Machynlleth Bench heard the case of Hannah Jones v. Elizabeth Gittins, followed by Elizabeth Gittins v. Hannah Jones. The newspaper reported that

¹²² See D. Hay, 'Property, authority and the criminal law', pp. 17-65.

¹²³ *N.W.E.*, 9/11/1869.

¹²⁴ *M.E.*, 8/5/1877.

‘after a patient hearing, the magistrates dismissed the summonses, each side to pay its own costs’.¹²⁵ Many examples of this sort are seen, with often both sides being bound over to keep the peace, or the cases being dismissed. Evan Ashton may well have been taken aback when both he and the person he charged with assaulting him were required to pay £5 to be bound over.¹²⁶

Although Charles Thruston made his comment about people using the justice system to intimidate others, he made no mention of those landowners who used the criminal courts to establish rights for themselves. Edward Morris’s lawyer stated at Llanidloes Sessions that Morris had brought a case of illegal fishing ‘not for vindictive reasons but simply for the assertion and maintenance of his rights,’¹²⁷ and farmer James Powell admitted to Welshpool magistrates that he had brought a charge against a youth (of criminal damage to a boat) in order to stop people from using his vessel to cross the Severn.¹²⁸ Davis identifies the use of summary courts by individuals for resolving their disputes, and argues that the magistrates were fully aware of their mission to help resolve those problems and disputes that arose from miscellaneous rather than class-based social relations.¹²⁹

The magistrates did not necessarily support people in authority. County-court bailiff Nathaniel Hawkins may have been shocked when the Welshpool Bench convicted him of ‘annoying’ 20-year old basket maker William Morgan.¹³⁰ River bailiff John Dickens charged three men with throwing stones at him and had a witness to support his claims. Nevertheless, the case was dismissed because of lack of identifying evidence, especially since five witnesses came forward to say the defendant was elsewhere at the time.¹³¹ As well as enabling local people to have their

¹²⁵ *N.W.E.*, 9/9/1870.

¹²⁶ *N.W.E.*, 16/5/1871. See also for examples of neighbour disputes that were bound over or dismissed: Ann Williams and Eliza Evans, *N.W.E.*, 7/9/1869; Jane Thomas and Margaret Davies, *N.W.E.*, 16/5/1876; Sarah Evans and Eliza Owens, *N.W.E.*, 7/9/1869.

¹²⁷ *N.W.E.*, 3/9/1872.

¹²⁸ *N.W.E.*, 31/5/1870.

¹²⁹ Davies, ‘A poor man’s system of justice’, p. 331.

¹³⁰ *M.E.*, 22/5/1877.

¹³¹ *M.E.*, 9/1/1877.

say in support of others, court appearances enabled a woman, who might not be able to defend herself physically against a man, to fight against perceived injustice. When tollgate lessee James Pryce tried to throw his gatekeeper out and assaulted her in the process, she took him to court. Even though Pryce had legal representation, the magistrates found for his unrepresented female former employee and she received compensation.¹³² Even when a defendant had indeed committed the crime of which he or she was accused, the formalised arena overseen by dispassionate parties with set rules, allowed detail to be introduced which could provide mitigation. William Williams took Jane Gough to Sessions, accusing her of hitting him. After hearing various witness give testimony, the justices deemed the assault proved, but as Williams had used the words ‘thou art nothing but a prostitute’, deemed by the Bench to be ‘very provocative’, they told him he was very much to blame, and inflicted a minimum fine on Gough.¹³³ However, as seen with some assaults on wives, the records of Sessions indicate that various magistrates allowed a family dispute to be treated differently from others. After Edward Bebb struck his sister-in-law three times in the presence of her husband, it was deemed a ‘family affair’ and a minimal fine of 6d. was imposed.

Conclusion

The general public were not intimidated by the local courts. They used the courts readily to sort out disputes and to establish rights, although the situation was often somewhat different when it came to domestic assaults. The Petty Sessions provided a local court of justice that could almost be described as a court of appeal. Residents commonly brought their disputes to be heard by local men of standing and property who judged their cases using local knowledge, their own sensibilities, guidance from *Stone's* and their clerk, although they were not averse to ignoring the latter two sources of advice. There was one remarkable case in which the proceedings were conducted entirely in Welsh without a translation into English. The cases show that the justice system was not a ‘closed shop’ to the lower orders, in fact, as noted by Charles Thruston J.P., some were using it too readily to pursue their own agendas in

¹³² *N.W.E.*, 20/5/1873.

¹³³ *M.E.*, 17/9/1878.

certain circumstances. The impression given by these Sessions is of the flexible and highly-selective system described by Peter King in his early-modern studies.¹³⁴

To the police, the Petty Sessions were the place to which they brought many offending members of the public, and where Chief Constable Danily saw his efforts rewarded or frustrated. He and his officers could not rely on the magistrates to support their pursuit of disorder, as the justices used their discretion when deciding on penalties, which meant a rather *ad hoc* approach to the sentences imposed. However, the officers could generally be confident that if they were assaulted during the course of their duty, the courts would come down heavily on the aggressors. Study of the financial penalties imposed across the full range of offences suggests that the justices took ability to pay into account, which has enabled the conclusion to be made that Welshpool was more prosperous than other towns, but that the county as a whole was poor. Bind-over orders were given as a method of controlling behaviour but involved a financial component that was beyond the means of many, particularly women.

The next chapter investigates the court of Quarter Sessions, where the magistrates were not the sole arbiters, but where local men played a part in the judicial decision making process.

¹³⁴ P. King, 'Decision-makers and decision-making in the English criminal law, 1750-1800,' *The Historical Journal*, 27 (1984), pp. 25-58.

Chapter 6

Quarter Sessions

Farmers, Felons and Juries



Magistrates in summary courts adjudicated on a range of offences and minor disputes. Local people had roles as complainants, defendants and witnesses, with the police contributing as prosecutors of crimes involving disorder. Focus now turns to the higher court where cases deemed more serious were heard. The magistrates will be seen again but with other justices from around Montgomeryshire, sitting on the combined County Bench. The chapter will explore the process by which cases appeared in the court, and examine the contributions made by the general public and the police. The input of magistrates will be examined to investigate whether the discretion seen previously – at times generous and lenient or inexplicably stern and harsh – appeared again, and sentencing patterns will be pursued. The overall investigation will be to discover if Quarter Sessions favoured the middle classes, how the influence of that social group was seen in court, and to what extent it diminished the magistrates' discretion.

Did status or income have a bearing on the route to court?

During the early modern period, virtually all detection of crime was a matter of private initiative with the state intervening only in matters concerning the role of government, for example in forgery or coining offences.¹³⁵ Jones describes how in the

¹³⁵ Godfrey, *Crime and Justice*, p. 29, also comments in Philips, *Crime and Authority*, p. 96.

nineteenth century an individual's decision to proceed with court action was supposedly a merit of the British legal system, and he calculates from Monmouthshire Quarter Sessions data that during the first half of the century, at least 66 percent of prosecutors were the victims.¹³⁶ Humphreys' eighteenth-century investigations found that court proceedings often 'nourished ill feeling' within a community. Nevertheless, he also found that complainants frequently brought to the courts charges of violence and assault, which arose frequently from disputes between family members or near neighbours.¹³⁷ Jones goes on to state that the new, professional police of the nineteenth century usually prosecuted only when they themselves had been injured, in cases of larceny from the person, or in street crime. This was the pattern found occurring at Summary, or Petty, Sessions in the present study where police officers notably prosecuted offences related to disorder. The situation was found to be different at the higher court where only about 21% of the cases studied were prosecuted by the police, and these were mainly crimes of theft.¹³⁸ Study of the details of the cases reveals no apparent reason why the police took charge of some of the cases and not others. They often prosecuted when the victims were women, but not always, or when the accused person pleaded guilty and the victim did not appear. These findings are in accord with those found elsewhere. Emsley writes:

It seems probable that the new police were sucked into acting as prosecutors from their early years because of the poverty of some of the victims of theft. [A police superintendent] explained to the Constabulary Commissioners that on one occasion, arresting police constables had been obliged to pay for a bill of indictment since the two prosecutors in the case were too poor. It may be significant that in

¹³⁶ King's mainly eighteenth-century investigations identify the victim as the one who provided the driving force that moved a dispute to a trial, and describes the multifarious opportunities for discretion on the way to the court, and the various options that could allow the victim to obtain satisfaction. King, *Crime, Justice and Discretion*, pp. 17-35. B. Godfrey commented that if it were not for the substantial activity of victims, there would be little recorded crime at all before the late-Victorian period. B.S. Godfrey, 'Changing prosecution practices and their impact on crime figures, 1857-1940', *British Journal of Criminology*, 48 (2008), p. 171.

¹³⁷ Humphreys, *Crisis*, pp. 224-225.

¹³⁸ *Quarter Sessions Minute Books* at Powys County Archives name the prosecutor in each case. M/QS/SM/3. Phillips' calculations from Staffordshire in 1860 show that police were handling less than half of all prosecutions, and Jones argues that it was only very late in the century that the police became the main initiators of criminal cases at the higher courts. Phillips, *Crime and Authority*, p. 130; Jones, *Crime*, pp. 20-1. See also comments in Godfrey, 'Changing prosecution practices' pp. 171- 186.

several cases in mid-nineteenth century Bedfordshire, in which the police had acted as prosecutor, or joint prosecutor, the victim or joint prosecutor was a woman ... In 1866 there were 95 indictments at Quarter Sessions of which 47 were preferred by Nottinghamshire Constabulary ... These Nottinghamshire cases do not readily reveal much in the way of common characteristics suggesting why some rather than others were taken on by the police.¹³⁹

It was earlier observed that the new police had changed the face of Petty Sessions via their pursuit of drunkenness and disorder. Here we see a change again as they made the higher court accessible to people who might otherwise not have pursued their losses. There were some cases in which the police went to extraordinary lengths to apprehend the suspect. For example, the jury at Hilary Quarter Sessions in 1870 heard the facts of a case involving the theft of fowls and potatoes from a farm a few miles from Newtown.¹⁴⁰ Not only did Inspector Davies visit the scene of the crime, but P.C. Hudson went in pursuit of a suspect gang of gypsies described by the farmer, travelling about 25 miles until he caught the gang in Shropshire. In another theft case heard at the same Sessions, Inspector Davies testified that he trailed a suspect from Llandinam to Berriew, a distance of about 16 miles. At the Easter Sessions of 1869, the jury heard how a man suspected of obtaining money by false pretences was found in police custody in Maentwrog which is about 40 miles away by road.¹⁴¹

Emsley describes an eighteenth-century pursuit of a thief by his victims from Bedfordshire through Huntingdonshire and Cambridgeshire, but such a pursuit involved valuable time, and by the mid-nineteenth century those with money sometimes paid the police to do the chasing. There is no record that the victims in the cases mentioned above did so, but they were a farmer, a butcher and a timber merchant – men who could pay a fee. They were also the sort of men who would be called for jury service, so the police might have wanted to ‘keep them sweet’. In fact,

¹³⁹ Emsley, *Crime and Society*, p. 196.

¹⁴⁰ *N.W.E.*, 11/1/1870.

¹⁴¹ *N.W.E.*, 16/3/1869. In this case, a labourer sold a horse on behalf of the owner but disappeared with the money. He was located in Maentwrog two weeks later. Finding him might well have involved the use of the *Police Gazette*. This publication at that time was published weekly and contained details of absconded persons suspected of crimes and was circulated to police stations. For information about the *Police Gazette* see D.T. Hawkings, *Criminal Ancestors*, p. 155.

the butcher mentioned was on the jury list at the Midsummer Sessions six months earlier.¹⁴² It is also possible that these men were members of so-called felons associations. These were groups of men who banded together to form societies prepared to pay the costs of apprehending suspects and bringing them to justice, including offering rewards for information.¹⁴³ There were at least 450 such associations created in England and Wales between 1744 and 1856, and newspaper descriptions of events in Welshpool show that there was one in that town during the period studied here.¹⁴⁴ Study of the names of members (Table 6.11) shows that they were retailers and skilled workers, living around the centre of town and included the sort of men who could be found on the Local Board, possibly become magistrates or be called for jury service. They were the kind of men already identified as those who may have been influenced by observable police activity. James Eddowes, who became a felons association committee member in March 1870, prosecuted two labourers at the Michaelmas Sessions later in the same year, and members John Hickman, John Morris and John Sayce each brought charges to Quarter Sessions during the decade.¹⁴⁵ Barry Godfrey makes the perceptive point that as accused persons increasingly used lawyers to defend themselves, complainants may have become reluctant to take on the prosecutions.¹⁴⁶ However, membership of a felons association eased the way to hiring an advocate to do this for them, but the joining fee effectively excluded the poor from their number.

¹⁴² Jury List Midsummer 1869, P.C.A., M/Q/SR.

¹⁴³ A. Shubert, 'Private initiative in law enforcement: associations for the prosecution of felons', in V. Bailey, *Policing and Punishment*, pp. 25-41. See also Emsley, *Crime and Society*, p. 191.

¹⁴⁴ Reports of the Association's annual dinner in *N.W.E.*, 9/3/1869 and 8/3/1870.

¹⁴⁵ Eddowes: *N.W.E.*, 25/10/1870; Hickman: *N.W.E.*, 10/1/1871; Morris: *N.W.E.*, 27/10/74; Sayce: *N.W.E.*, 5/7/1869.

¹⁴⁶ Godfrey, 'Changing prosecution practices', p. 175.

Surname	Forename(s)	Occupation	Information
Anderson	James	Photographer	
Bowen	Thomas	Banker	
Clarke	William Yearsley	Porter merchant and maltster	
Collender	W	Station master	
Davies			
Eddowes	James	Ironmonger	Local Board member
Evans	Thomas	Publican	
Hand	John	Builder	
Harrison	Edward T D	Surgeon and magistrate	President of felons association; member of Local Board; magistrate
Hickman	John	Auctioneer	
Humphreys	David	Provisions dealer	
Jones	E M		Member of Local Board
Jones	Edward	Clerk	
Jones	T. Pugh	Chemist	
Lloyd	Richard	Builder	
Morris	George	Stone mason	
Morris	Thomas	County Court Bailiff	Member of Local Board
Morris	John	Iron founder	
Owen	D. Pryce	Printer	Vice chairman of felons association
Perkins	Edwin	Master butcher	
Porteous	James	Master mason	
Pryce	John	Farmer	
Pryce	Dr	Surgeon	
Pryce	Edward	Mercer	
Rowland	W	Hotel keeper	
Rutter	Thomas	Wool merchant	
Salter	Samuel	Printer and bookseller	
Sayce	John	Farmer and butcher	
Thomson	Not known	Not known	
Whitehall	John	Auctioneer	
Williams	John	Confectioner	
Williams	Thomas Kemble	Chemist	
Withy	William	Land agent and farmer	Ex-mayor, also on Local Board; sometime mayor

Table 6.1: Members of Welshpool felons association, 1869-70.
(Occupations from inspection of the national censuses)

Notable in the list of names are Edward Harrison and William Withy who were chairmen of the Welshpool Bench at times during the 1870s, and members of the local

board. One wonders how they could possibly have been considered impartial in their judgements in court. Godfrey identified a ‘preoccupation with law and order at a broader level’ by members of the Bench who were also involved in community politics as was the case with Harrison and Withy.¹⁴⁷ We have already seen how appointments to the board of the local hospital could create political debate, and although no such discussion is recorded regarding appointments to the Bench, it is likely that there was disquiet in some quarters regarding political motivations.

In 1904, local solicitor Charles Edward Howells wrote an article for *The Montgomeryshire Collections* in which he described the foundation of the Welshpool felons association in 1836.¹⁴⁸ He listed the rules of the newly-formed society, and one of them was:

That the treasurer, secretary or either of the committee upon notice given them of any such offence as aforesaid are empowered immediately to cause proper advertisements to be printed, published and dispersed, and to dispatch such persons as they shall think proper in pursuit of such lost property and suspected person or persons. And that the treasurer pay all costs, charges and expenses attending the pursuit, apprehending and prosecuting all such offenders out of the funds of the society.

Thus the pursuit of the gypsies across the hills near Newtown to Shropshire may well have been a result of membership of such a group, although no record of a Newtown association has been found. The remains of a Reward poster can be seen on a wall in one of the old flannel manufacturing areas of the town (Figure 6.1).¹⁴⁹ The originators of the poster cannot be discerned, but it could be a felons association.

¹⁴⁷ Godfrey, ‘Sentencing patterns’, p. 701.

¹⁴⁸ C. E. Howells, ‘The association for the prosecution of felons, Welshpool’, *Mont. Colls*, 33 (1904), pp. 95-105. Howells was a regular and frequent prosecuting lawyer at the Sessions studied here.

¹⁴⁹ A 10s. reward is offered for information leading to the conviction of a person who caused damage to property. No date is evident.



Figure 6.1: Remains of a Reward poster in Penygloddfa, Newtown.¹⁵⁰

Adrian Shubert found in his studies of Lancashire that the driving force behind the foundation of the Maghull felons association was concern over the unwillingness of victims to prosecute because of cost.¹⁵¹ This was the case in Welshpool, as at its founding the preamble to the rules and regulations read:

whereas several horses, sheep and other cattle have been stolen and frequent burglaries, felonies and larcenies of various kinds committed in the parish of Pool and its neighbourhood, and the offenders have often escaped justice for want of immediate pursuit and effectual prosecution ... we do agree ... to raise and maintain a fund for the prosecution of all such offences.¹⁵²

It should be noted that the Welshpool association was founded at the same time as Welshpool Borough police, and Shubert found that there was a correlation between foundation of felons associations and early establishment of police forces. He

¹⁵⁰ Thanks to Matthew Jones of Union Street, Newtown for bringing this to the attention of the author.

¹⁵¹ Shubert, 'Private initiative', p. 26.

¹⁵² However the victim decided to proceed, pursuing the offender and collecting evidence was a challenge for the private prosecutor. Howard describes how victims of theft in early modern Denbighshire responded in a variety of ways. Some might go to great lengths to apprehend a suspect or else chose to ignore the loss, and some might be prepared to accept an informal deal with the offender rather than face the lengthy and possibly expensive legal process. S. Howard, 'Investigating responses to theft in early modern Wales: communities, thieves and the courts', *Continuity and Change*, 19 (2004), p. 410; King, *Crime, Justice and Discretion*, p. 30. Jones cites this as the alternative face of the supposedly merit-worthy British legal system. Jones, *Crime*, p. 20.

concluded that men of influence in those areas required more than the protection of just one type of force, or encouraged the police by giving rewards.¹⁵³

A similar association was founded in Llanfair Caereinion, a farming area ten miles east of Welshpool, in 1875. This was a relatively late foundation and supports the local feeling that country areas were poorly patrolled by the county police who had been in place for 35 years. No doubt the main purpose behind this association was the same as in Maghull and Welshpool, but the local vicar, the Rev. E. Jones, was broader when he made an address at the first annual meeting, touching on Christian teaching in his reference to revenge:

We have met here for the first time to inaugurate the establishment of a society for the prosecution of felons. I hope there are not many in this parish who correspond with the definition of felon. This society will naturally not be popular with the class of people who are in the habit of committing petty thefts, and I take it that the mere fact of such a society being established amongst us will be the means of preventing acts of this description. The law is rigorous but does not contemplate revenge; but punishment is necessary to ensure respect for the laws of our country.¹⁵⁴ It is not so much for the positive good that our society has done that we rejoice. We all know that 'prevention is better than cure' and I am glad to hear that the members have already felt the benefits of having such an association amongst them, and are congratulating themselves upon the good already done. It is not so much to catch the mice that we have a cat but to scare them, and it is gratifying to hear that the society has been the means of scaring the offenders. Another good effect of the association is that it brings us together, and I am convinced that the more we are brought together the more we shall esteem each other. I have great pleasure, gentlemen, in giving you success to the Llanfair Association for the Prosecution of Felons. (Loud applause).¹⁵⁵

In a later address by one of the members, a toast was made to the farmers of the area, the speaker claiming that Llanfair farmers were among the best in the county.

¹⁵³ Shubert, 'Private initiative', p. 36.

¹⁵⁴ Landau argues that the enforcement of criminal law depended on the willingness of the private prosecutor to bring charges and that those prosecutors found the courts' mechanical and routine treatment of the people they accused very useful. N. Landau, 'Indictment for fun and profit: a prosecutor's reward at eighteenth-century Quarter Sessions', *Law and History Review*, 17 (1999), p. 32.

¹⁵⁵ *M.E.*, 6/2/1875.

This may intimate that farmers were, perhaps, the most vigorous and successful complainants, and possibly the majority of the membership. Norma Landau argues that a motivation for prosecution of cases could have been a victim's desire to protect his or her reputation,¹⁵⁶ and there may have been an element of this among the farmers, especially those who were prominent in the local community, those perhaps who appeared on the superior grand juries which will be discussed in a subsequent section. During the speech, plaudits were made to the magistrates of the Llanfair Bench, described as being 'noted for their wisdom'; giving the impression that Petty Sessions judgements were usually made in favour of the prosecutor. As well as this, the justices were landowners and employers, the sort of men the felons association members would want to keep on their side.¹⁵⁷

During the first year of its life, the Llanfair association employed solicitor Charles Spencer Thorne to prosecute its cases, revealed by the censuses to be in his early twenties and not likely to be very experienced.¹⁵⁸ However, when Thorne left the area in February 1875, his successor was Welshpool heavyweight, George D. Harrison, solicitor to local major landowners and magistrates Capt. Mytton and John Naylor. The engagement of this prominent lawyer suggests that the association had proved popular and worthwhile, and that subscriptions were of such a level as to enable payment of Mr Harrison's fees. We shall now investigate the pursuance of criminal cases.

The cases

Quarter Sessions, although with its pomp and ceremony a more visible event in the community than Petty Sessions, was a situation in which a much smaller number of cases were heard. Figure 6.2 shows the relative number of cases heard in the two courts over the course of the ten-year period 1869-78, showing that there were almost

¹⁵⁶ Landau, 'Indictment for fun and profit', p. 519.

¹⁵⁷ Godfrey and Cox discuss similar praise to magistrates given by people in Yorkshire in *Policing the Factory*, p. 152.

¹⁵⁸ Thorn passed his final examinations as an articled clerk in summer 1872 (*The Worcester Journal*, 14/6/1872) thus he had been fully qualified less than two years when appointed by the association.

a third fewer cases heard there than at Petty Sessions.¹⁵⁹ The proportions of different types of crime were also very different at the lower and higher Sessions (Figure 6.3). In summary courts, offences involving drunkenness, poaching and highways were the major feature, whereas at Quarter Sessions theft cases dominated.¹⁶⁰

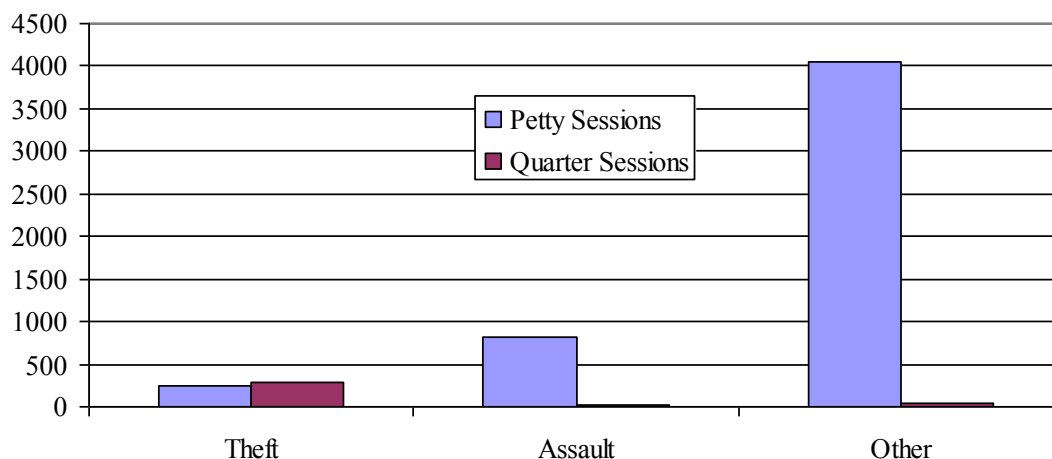


Figure 6.2: Numbers of cases appearing at Petty and Quarter Sessions, 1869-78.

¹⁵⁹ See also Godfrey's findings, *Serious Offenders*, p. 58. In King's study of eighteenth-century English summary courts, he found that about 33% of the adult population of one rural Wiltshire parish was involved in judicial hearings as either victims or offenders, and that urban dwellers also made extensive use of summary courts. He found a huge contrast with Quarter Sessions where, in an Essex parish, less than 5% of households would have contained anyone who had performed any substantial role in a major court. In any given year the average resident there was between 10 and 15 times more likely to be involved in a summary hearing than in a major court case. P. King, 'The summary courts', pp. 133-4.

¹⁶⁰ Jones found that property offences constituted 75% of Quarter Sessions cases compared to 25% of Petty Sessions cases. Jones, *Crime*, p. 105.

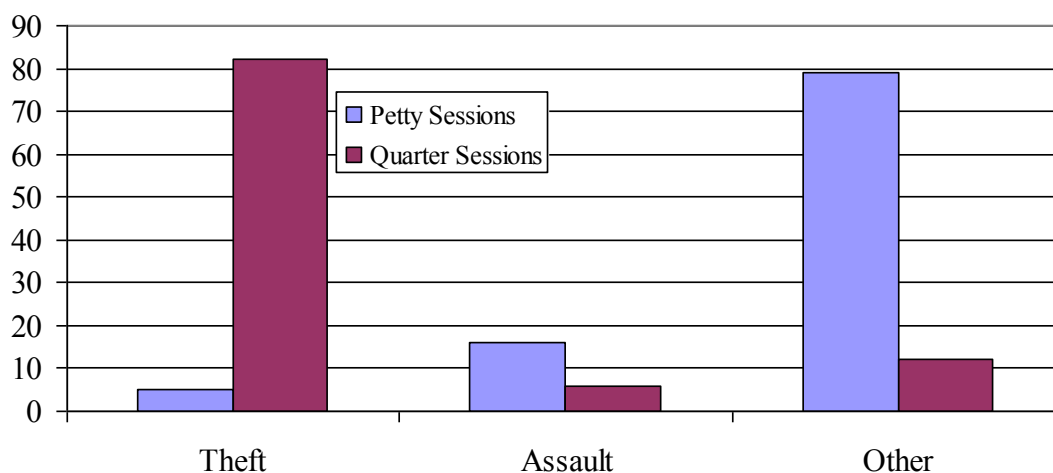


Figure 6.3: Percentages of different types of cases appearing at Petty and Quarter Sessions, 1869-70.

At Petty Sessions, the thefts included food/crops, livestock and money, but were mainly tools/equipment and clothes/footwear. At Quarter Sessions, the biggest single type of theft was that of clothing/footwear, reflecting their value and the gravity with which this category of theft was regarded.¹⁶¹ The criteria which determined whether the accused was sent to the higher court appear to be seriousness and whether or not there was a guilty plea.¹⁶² Money thefts prosecuted before Petty Sessions involved

¹⁶¹ Among the early-modern Essex courts studied by King, property crimes constituted about 70 per cent of cases. His warning about the manipulation of definitions brings caution into the picture, but it is possible to say that highway robbery, burglary, housebreaking (i.e. daytime burglary), sheep and horse stealing featured significantly in his studies, although the greatest single property offence was larceny (i.e. theft without aggravating features). But as these studies were of the eighteenth century they might be very different from those found in the present study. In Phillips' nineteenth-century Black Country work, larceny constituted 85 percent. There, industrial theft (tools, metal, coal, etc from places of work) was the greatest single offence, with theft of clothing, food and animals also being significant. Phillips, *Crime and Authority*, pp.177-8. Humphreys' eighteenth-century calculations show that 66.5 percent of all Quarter Sessions defendants faced assault charges whereas 15.5 percent of them faced property charges. He found that often the assault charges were brought by people in authority, such as bailiffs who, perhaps needed the support of the court. Humphreys warns that the Quarter Sessions records that he consulted were fragmented, and this could explain why his finding that only a small proportion of cases were property crimes is very different from King's, Phillips', Jones's and the results found in the present study. Humphreys, *Crisis*, pp. 224-225

¹⁶² Some offences such as assault or riot could be tried either summarily or on indictment. The Juvenile Offenders Acts of 1847 and 1850 allowed summary trial for larcenies if committed by juveniles under the age of 16. The Criminal Justice Act of 1855 allowed summary trial, for accused of all ages, for larcenies under the value of 5 shillings if the accused agreed to a

small amounts of a few pence or shillings whereas all the money thefts at the higher court were of relatively large sums, the largest amount claimed to have been lost being £40. The average amount was £5 8s. although most losses were less than £4.¹⁶³

In an agricultural county such as Montgomeryshire, the theft of livestock might be expected to be prevalent, but Jones explains that the true extent of such crime could never be known, and this is evident in the small number – 27 (9% of thefts) prosecuted during 1869-78. Jones states that animals left out on open fields were liable to be taken by locals and suspect outsiders such as tramps and hawkers. The stolen stock might then be killed and eaten, or spirited away for selling.¹⁶⁴ Nicholas Woodward has looked closely at horse and sheep stealing in Wales at the end of the eighteenth century into the first three decades of the nineteenth century. He found that Montgomeryshire was a major source of stolen horses with its proximity to the English border, in particular to Shropshire, being fundamental to the thefts as it meant that disposal was relatively easy. He notably identifies these thefts as being an indication of the pre-industrialised nature of the county at that time, with few other criminal opportunities available.¹⁶⁵ One of the objects of the various felons associations was to pursue the loss of livestock, and as three of the cases originated in Llanfair Caereinion after the date of foundation of their association, it will be useful to see the progress of them through the legal system, and a description and discussion of these cases follows.¹⁶⁶

John Jones lived with his family on a farm near Llanfair Caereinion (Figure 6.4). In early March 1878, a police officer came to him with two hens that had been seized from a tramp found wandering locally. Jones had not reported the loss; in fact he was not even aware that any stock was missing. He said at the trial of the tramp, ‘I counted

summary trial and for larcenies of 5s and over if the accused pleaded guilty. Phillips, *Crime and Authority*, p. 97.

¹⁶³ For discussions of thefts of different types in varying communities see Jones, *Crime*, pp. 106-114.

¹⁶⁴ Jones, *Crime*, pp. 127-8.

¹⁶⁵ N. Woodward, ‘Horse stealing in Wales, 1730-1830’, *Agricultural History Review*, 57 (2009), pp. 103-4. See also N. Woodward, ‘Seasonality and sheep stealing in Wales, 1730-1830’, *Agricultural History Review*, 56 (2008), p. 30.

¹⁶⁶ *M.E.*, 9/7/1878 and 19/3/1878; P.C.A. M/Q/SR Midsummer and Easter 1878.

them at the end of February and there were 42. I counted them again on March 16 [when the officer brought the hens to him] and there were 35. They are my hens to the best of my knowledge'. David Jones does not state why the true extent of livestock could never be known, but here is an example of a farmer simply not noticing a 17% reduction in numbers.

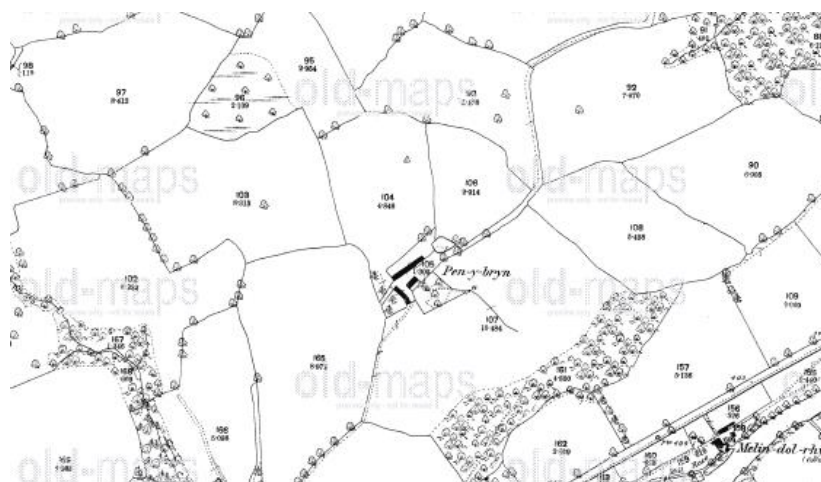


Figure 6.4: Location of John Jones's farm at Llanfair Caereinion (1:25000 Ordnance Survey, 1886)

The tramp in the above case was tracked down and arrested following a tip-off from a poultry dealer in the town of Meifod. At the trial the dealer said, 'The prisoner came to me with couple of fowls and asked me to buy them. I said, "They are old ones," and he said, "One was a two year-old but the other was quite a young one". He asked me 5s. for them but I said they weren't worth it. I then sent for P.C. Richards.' The poultry dealer also said that he had come across the prisoner previously. His eagerness to send for the constable could have been from suspicion and from a concern for law and order, or it could have been from a desire not to be implicated in any dishonest dealings. Traders were regularly associated with receiving stolen goods, as Emsley writes: '[Dealers and retailers] made profits from receiving. There were butchers and poulterers who received game from poachers and who sometimes organised poaching gangs'.¹⁶⁷

¹⁶⁷ Emsley was discussing pawnbrokers as receivers in particular. In a case heard at the Montgomeryshire Quarter Sessions in 1871, a pawnbroker joined the lawful owner of 20 pairs of boots in setting up a trap for the suspect. This may have been in an attempt to disassociate himself from the theft. (*N.W.E.*, 4/7/1871, discussed more fully in a later chapter).

In a second case from Llanfair Caereinion, farmer John Emberton lost three fowls to a tramp known as Australian Jack. The same tramp stole two fowls from Emberton's neighbour Margaret Edwards.¹⁶⁸ It is not clear if Emberton was a member of the felons association, and as the suspect pleaded guilty, there was no trial and few details are available. What is clear, however, is that whereas Emberton was a prosperous farmer of 205 acres, Mrs Edwards was a widow with a relatively meagre 9 acres. In a show of co-operation, or perhaps desire to see the thief suitably punished, Emberton assisted the less able widow with the expenses, thereby enabling a prosecution that might otherwise not have taken place. This also shows that the better-off members of the community were at an advantage when it came to pursuing losses.

The input of women in prosecutions

Widow Margaret Edwards of Llanfair Caereinion was able to pursue her loss of fowls with the support of her neighbour. In 1871, widow Elizabeth Parry lost a horse from a field on her 68 acre farm in north Montgomeryshire.¹⁶⁹ From the depositions it is clear that Mrs Parry was proactive in organising her servants in tracking hoof prints and sending word to the nearest policeman, some five miles away.¹⁷⁰ Leaflets advertising the theft were also printed and distributed, which may indicate that the widow was a member of a local felons association, as one of their prominent actions was to publicise thefts in this manner. Here is evidence that a better-off farmer, because of more available resources, could help herself.¹⁷¹ This supports the previous assertion that the better-off members of the community were at an advantage.

¹⁶⁸ *M.E.*, 19/3/1878. The 1886 1:25,000 O.S. map shows the two farms, Brynmawr and Frongoch, about a quarter of a mile apart.

¹⁶⁹ *P.C.A.*, M/Q/SR, Michaelmas 1871.

¹⁷⁰ Comparable with Woodward's findings about disposal over the border, the suspect and animal were found in neighbouring Denbighshire, *en route* to Wrexham. In agreement with Woodward's comment that horse theft was less prevalent being difficult to execute and trace, out of a total of 27 livestock thefts during the period, only this one horse theft was recorded and the animal was found within a matter of hours.

¹⁷¹ Mrs Parry told the court that she knew the suspect, Thomas Jones, because he had worked for her until recently. He can be seen on the 1871 census as her unmarried farm servant, residing at the farm.

The list of members of the Welshpool association showed two female members who were represented by men at the inaugural meeting.¹⁷² By the 1870s there may have been more women members, and these could be some, perhaps most, of those women who were represented by police at Sessions. It has been shown how women at Petty Sessions largely brought cases of domestic abuse and woman-on-woman disputes involving assault. At Quarter Sessions, however, the charges they brought were solely those of theft. Some of these cases seem unusual in that the items stolen were of low value and a summary hearing would seem more appropriate. Examination of the details shows that the victim in one of the cases was the headmistress of a private Welshpool school who lost a pair of stockings from a washing line. The other was the housemaid of a lady described in court as ‘Mrs Hughes of Cemmaes’, shown on the census as living on independent means and having three live-in servants.¹⁷³ The constable in this case trailed the suspect for four miles and arrested him at which point the man exclaimed: ‘You will not take me up for stealing a pair of stockings I should think!’ There is no evidence that explains why the theft of these stockings resulted in a Quarter Sessions trial. Perhaps it was because a respectable woman was given the benefit of not having to share the court with the lower sorts at Petty Sessions, as well as seeming to have her complaint treated more seriously. Perhaps Mrs Hughes was on good terms with the local magistrates who had sent the case up to the higher court. Emsley explains the procedure for the prosecutor, saying that he could opt for taking the case to the higher court instead of Petty Sessions if he particularly wanted to make an example of the offender, or the magistrates might encourage a victim to choose the higher court.¹⁷⁴ However, detail from the Montgomeryshire Sessions studied here suggest that in the case of a woman victim, her respectability had something to do with the decision about mode of trial. King shows that the deliberate manipulation of offence definitions by prosecutors makes difficulties, including assessments of the levels of crime. For example, in the early modern period, it was common for victims of housebreaking, which was a capital offence, to bring charges of petty larceny in

¹⁷² Howells, ‘Association for the prosecution of felons’, p. 102. See comment about a woman’s interests being those of her husband after the Reform Act of 1832 in S. D’Cruze and L.A. Jackson, *Women, Crime and Justice in England Since 1660* (Basingstoke, 2009), p. 106.

¹⁷³ *N.W.E.*, 5/7/1870; 15/3/1870.

¹⁷⁴ C. Emsley, *Crime and Society*, p.188.

order to spare the defendant.¹⁷⁵ The stockings case also shows a possible manipulation of offence definition, but this time to spare the prosecutrix having to attend Petty Sessions.

Discretion of the wider community: the grand jury

It has been seen that at Petty Sessions level, although prosecutors had a degree of choice in the way they decided to pursue a grievance, this is where the general public's contribution to discretion in the legal system ended as they had no say in the judgement or sentencing. At Quarter Sessions there was a difference because a selected group of men – the grand jury – could determine a case's continued journey through the Sessions. They could even throw it out (i.e. find 'no true bill', or 'ignore it') at the very beginning of the court's criminal business.¹⁷⁶ Grand jurors were selected from the pool of men eligible for jury service by way of a property qualification,¹⁷⁷ but the selection was generally men of higher social standing than those selected for the jury at the trial itself, the so-called 'petty jury'. The men would have been well aware that a seat in the grand jury implied higher status, as the grand jury in the Assizes was occupied by magistrates. Bentley describes how some grand jurors, however, could only sign their names with a cross, although there was no evidence of this in Montgomeryshire during the 1870s.¹⁷⁸ In the present study instances were found when a particular man sat in the grand jury in one Session, and the petty jury in another, showing a change in status.¹⁷⁹ Bentley also makes the point that juries were wholly unrepresentative in that they were restricted to men of between 21 and 60 years of age who satisfied the property qualifications. An investigation was

¹⁷⁵ P. King, *Crime, Justice and Discretion*, p. 136. Petty larceny was theft of items worth less than 1s.

¹⁷⁶ Bentley, *English Criminal Justice*, pp. 131-2.

¹⁷⁷ Owning land worth at least £10 a year; occupying a dwelling of at least £20 per year rateable value; or occupying a house with at least 15 windows. This was laid down by the Juries Act of 1825 (see Phillips, *Crime and Authority*, p. 106).

¹⁷⁸ Bentley, *English Criminal Justice*, p. 131. See also Phillips, *Crime and Authority*, pp. 102-3 for a summary of the grand jury's role.

¹⁷⁹ For example, farmer Charles Langford of Berriew, present on the petty jury, Hilary 1874 and the grand jury, Michaelmas 1871; Montgomery butcher Charles Davies, petty jury Hilary 1876 and grand jury Michaelmas 1871; Kerry farmer William Alderson, petty jury Michaelmas 1877 and grand jury Midsummer 1872. (P.C.A., Quarter Sessions rolls).

carried out to determine the characteristics of these men in Montgomeryshire. Figure 6.5 shows the range of occupations held by grand jurors, where known.¹⁸⁰

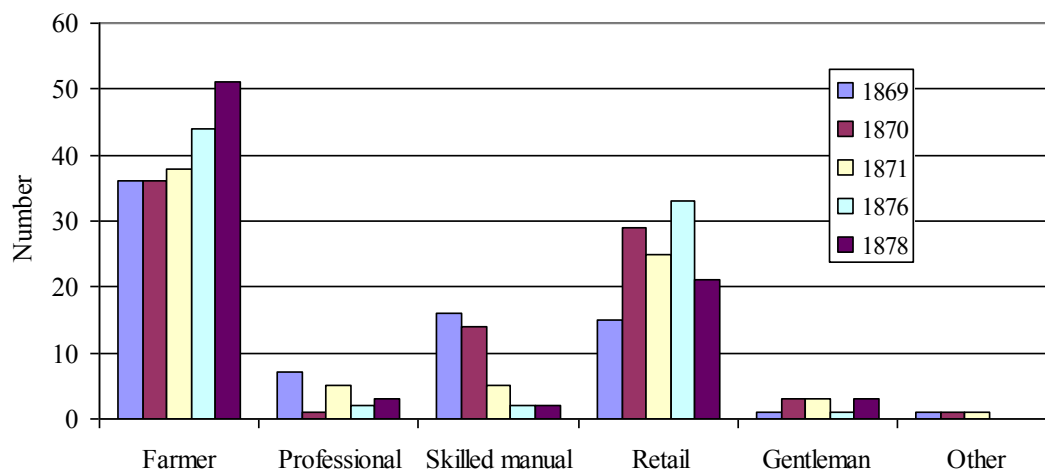


Figure 6.5: Representations of occupations in grand juries, 1869-78 (P.C.A., M/Q/SR 1869-78)

The figure shows that the largest single type of occupation represented was that of farmer. ‘Professional’ includes occupations such as land agent or schoolmaster, ‘skilled manual’ includes, for example, plumber and blacksmith. ‘Retail’ includes men such as drapers, but also those who might have used artisan skills such as shoemakers and tailors. Merchants are also included in this group. These were the sort of men who constituted a group gaining greater recognition during the nineteenth century as, for example, in the campaign for parliamentary reform in 1830-2. The term ‘middle classes’ recognised the considerable range of status and wealth denoted by the term, from prosperous merchants and manufacturers to shopkeepers and master craftsmen.¹⁸¹ It is interesting that middle-class formation has been defined as being not only those with middle-status occupations but also a self-aware social group that

¹⁸⁰ Figure 6.1 represents data for years where all the occupations of all the jurors in each of the four Sessions are known (399 individuals).

¹⁸¹ R.J. Morris, ‘Middle classes’, in *The Oxford Guide to British History* (1997, Oxford, 2002), pp. 639-40. See also A. Briggs, ‘The language of class’ in R.S. Neale (ed.), *History and Class* (Oxford, 1983), pp. 2-29 and Neale, ‘Class and class consciousness’, p.14.

can act collectively. This is perfectly illustrated in Quarter Sessions where we see the middle classes acting in concert in the form of the felons associations and juries.¹⁸²

Phillips's analysis of grand juries in the industrialized English midlands found that members were mainly farmers, tradesmen, professionals and gentlemen, and that very few were artisans or skilled manual workers.¹⁸³ This is different to Montgomeryshire, where gentlemen and professionals were few. King states that eighteenth-century juries in Essex were dominated by farmers, artisans and tradesmen, which is similar to the situation found here, suggesting that mid-Victorian Montgomeryshire in this regard resembled south-east England at the start of the Industrial Revolution.¹⁸⁴ Figure 6.6 shows an analysis of representation at Quarter Sessions held at Newtown and Welshpool.

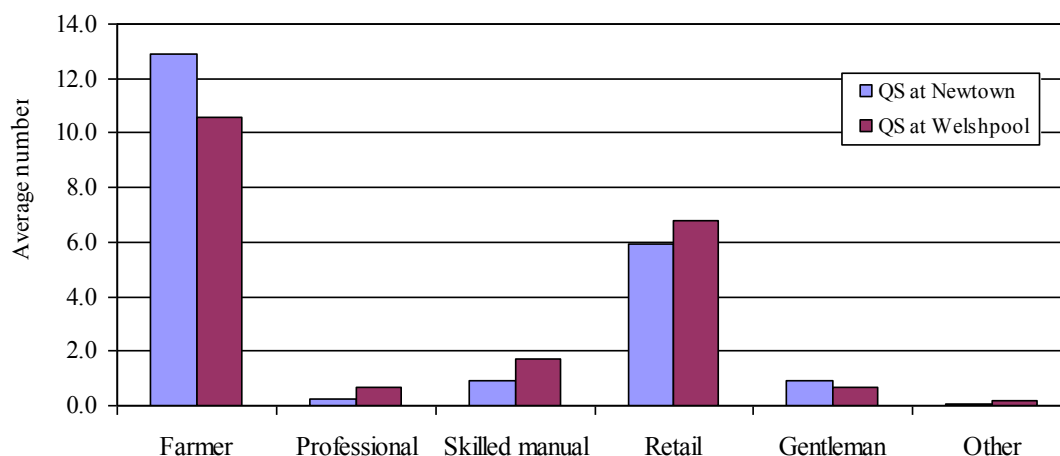


Figure 6.6: Occupational representation on Newtown and Welshpool Quarter Sessions grand juries, 1869-78

The figure shows detail that reflects Welshpool's borough status, with its slight swing towards a more commercial nature. Figure 6.7 shows the home locations of grand jurors marked on a map of parishes, and it can be seen that the men originated mainly

¹⁸² See also Ralf Dahrendorf's comment: 'Classes are based on the differences in legitimate power associated with certain positions, i.e. on the structure of social roles with respect to their authority expectations... An individual becomes a member of a class by playing a social role relevant from the point of view of authority... He belongs to a class because he occupies a position in a social organisation.' R. Dahrendorf, quoted in E.P. Thompson, *The Making of the English Working Class* (London, 1963), p. 11.

¹⁸³ Phillips, *Crime and Authority*, p. 106.

¹⁸⁴ King, *Crime, Justice and Discretion*, p. 242.

from the more prosperous regions of the north and east. The western side of the county sent few men to the grand jury, which supports the earlier analysis that less prosperous farms were in the west. Those from the west who did serve on the grand jury were from the pockets of commercial enterprise at Llanbrynmair and Machynlleth.

The grand jurymen referred to the bills of indictment and depositions, and could call on prosecution witnesses and question them.¹⁸⁵ All this went on behind closed doors, and with such secrecy it would be unwise to speculate on their deliberations, although King does consider that a high level of ‘not found’ decisions might indicate a tendency of jurors to give defendants the benefit of the doubt.¹⁸⁶ King found an ‘ignoramus’ result in about 17% of cases in the early 1800s and in the present study it was found to be about 13%. David Taylor found the percentage to be about 22% in early modern Surrey, and about 10% in mid nineteenth-century Black Country.¹⁸⁷ Jones found that often rape and infanticide cases were thrown out but rarely burglary and murder. Among the present findings, the 39 ignored bills included indecent assault, malicious wounding and house breaking, but by far the largest type was that of theft, with a total of 23 of the 39 ignored.

¹⁸⁵ Phillips, *Crime and Authority*, p. 102. However, Bentley states that the grand jury were not furnished with the depositions but had only the bill of indictment from which to work, along with the questioning of witnesses. Bentley, *English Criminal Justice*, p. 132.

¹⁸⁶ King, *Crime, Justice and Discretion*, p. 238.

¹⁸⁷ Taylor, *Crime, Policing*, p. 118.

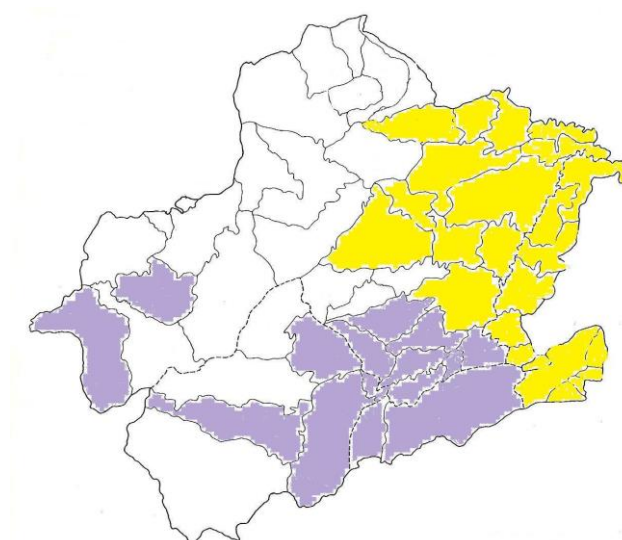


Figure 6.7: Home locations of grand jurors, 1869-78

Attending Welshpool Sessions

Attending Newtown Sessions

It was at the grand jury stage that the rape case against John Pilot was thrown out, followed by proceedings by Pilot against Sgt Ross for perjury.¹⁸⁸ Bentley explains how the secrecy of the grand jury made perjury difficult to detect and impossible to prosecute which may explain why Pilot did not pursue the charge.¹⁸⁹ As Pilot and his co-accused were discharged, the judge stated that the case could be re-opened at a later date if the woman decided to cooperate, which illustrates how the ignoring of a bill was not the same as an acquittal, thus a discharged defendant was still tainted with the charge. This may explain Pilot's original decision to charge Sgt Ross with perjury.¹⁹⁰ It was earlier noted that there may have been a conflict of interest when magistrates Edward Harrison and William Withy took their seats on the Bench, as they were also felons association members. A similar conflict of involvement can be

¹⁸⁸ See Chapter 4 and *N.W.E.*, 14/3/1871. In 1887, a PC Endacott was charged with perjury following an acquittal, C. Emsley, 'Lessons from history: how worried should we be when the police close ranks?', *BBC History*, Christmas 2013, p. 12.

¹⁸⁹ See J. J. Tobias, *Crime and Industrial Society in the Nineteenth Century* (Oxford, 1967), pp. 226-7 for a description of problems resulting from the secrecy of the grand jury proceedings.

¹⁹⁰ See comment in Bentley, *English Criminal Justice*, footnote 7, p. 132 and Phillips, *Crime and Authority*, p. 103. See *English Criminal Justice* pp. 131-4 for an interesting discussion of contemporary opinions about the grand jury system.

seen in the sphere of the grand jury, as association members were the very type of men who were selected for service. Ten of the men listed in the Table 6.1 appeared in the grand jury at least once during the decade studied and could hardly be considered impartial, indeed one of them was William Withy, and the others included the influential vice-president of the association. In the period under discussion, conflicts of interest of this kind, which would worry us today, seem not to have been of concern to people of that time.

The petty jury

The cases deemed *prima facie* by the grand jury proceeded to trial before the petty jury. Like the former, the petty jury was selected by the High Sheriff from those able to sit because of the value of their landed property. When the jury was selected from lists of qualified men from rural parishes, many of them would be farmers (see Figure 6.8).

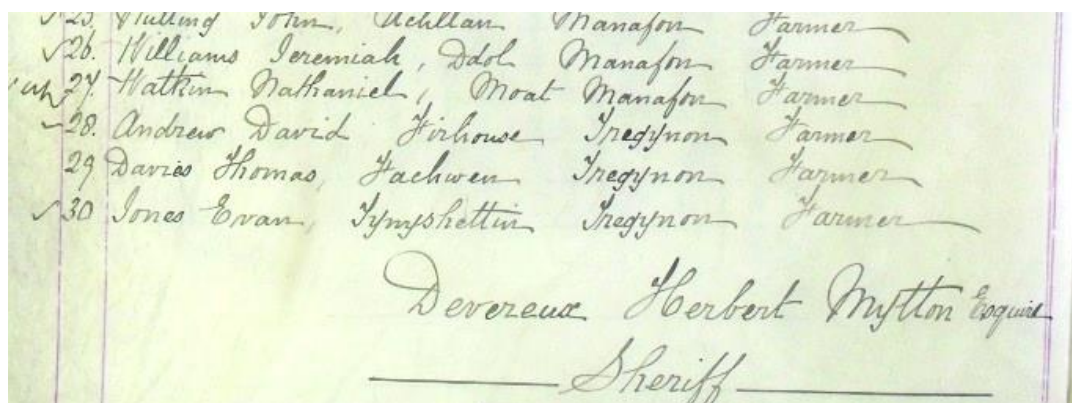


Figure 6.8: Part of the Hilary 1874 petty jury list signed by Capt Mytton (Jury lists, P.C.A. M/Q/SR 1869-78)

As the 'higher class' of man was selected for grand jury service, it is expected that petty-jury analysis will show predominance of men from a somewhat lower class. Figure 6.9 shows that gentlemen were not represented and professionals had all but disappeared, although the general shape of the graph is the same as seen in Figure 6.6 for grand juries.¹⁹¹ This similarity seems inevitable, given the local social structure,

¹⁹¹ Phillips found that gentlemen, bankers and members of professions were not found among petty jurors in his studies of the Black Country. Phillips, *Crime and Authority*, p. 106. See also Ireland's analysis of different juries, R. Ireland, 'Putting oneself in whose county?', in T.G. Watkin (ed.), *Legal Wales: its Past, its Future* (Cardiff, 2001), pp. 68-70.

one in which farmers in the east predominated as men of standing and wealth, and in which retail categories of employment were the next most numerous and socially significant group. ‘Retail’, of course, can cover a wide span of wealth. The property requirement meant that most of the working classes and landless poor were excluded, and King points out that some wealthy, non-landowning groups such as large tenant farmers and commercial men, whose main assets were in stock, were sometimes also excluded.¹⁹² Ireland makes the comment that a jury’s composition was more clearly marked by those it excluded than those it included.¹⁹³ The largest single group in the present study is farmer, outnumbering retailers and skilled workers combined. It might be surprising that one farm labourer featured in the lists but King found that a small number of unskilled workers did serve as they owned little pieces of land sufficient to meet the minimum requirement.¹⁹⁴ Many of these jurors would have been newly-enfranchised following the 1867 Reform Act and were growing in political self-confidence, and awareness of their new role in decision making. Comparing Newtown and Welshpool juries gives a graph shaped very similarly to that of grand jury occupational representation (Figure 6.10).

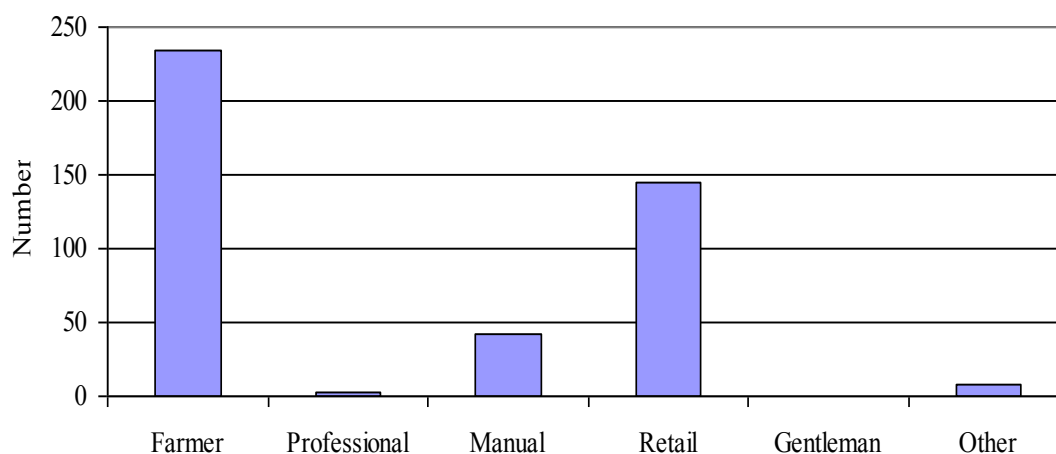


Figure 6.9: Occupational representation on petty juries, 1869-78 (432 men in 36 Sessions).¹⁹⁵

¹⁹² King, *Crime, Justice and Discretion*, p.244; Bentley, *English Criminal Justice*, p. 93.

¹⁹³ Ireland, ‘Putting oneself’, p. 70.

¹⁹⁴ King, *Crime, Justice and Discretion*, p. 244.

¹⁹⁵ 432 individuals studied at 36 Quarter Sessions, where all of the occupations of all the petty jurors are known. (Jury lists, P.C.A. M/Q/SR 1869-78).

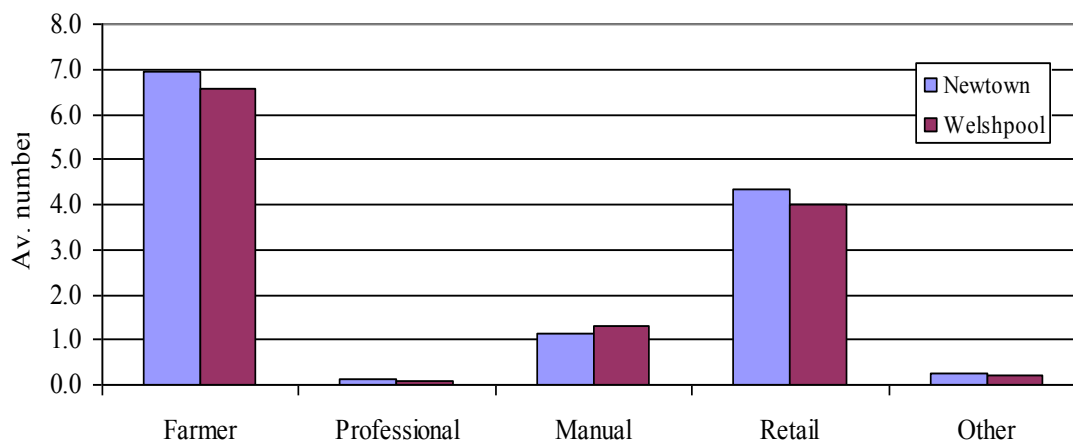


Figure 6.10: Comparison of occupations of petty jurors at Newtown and Welshpool Sessions, 1869-78

Just as different levels, or hierarchies, were seen among the magistrates and police, so here was another such layering. As before, the hierarchy was determined by financial situation, and a man would know his place by the particular role he was able to play. However, opportunity to sit as a jurymen was a matter of chance, or even design, because of the part played by the High Sheriff and the way he organised the lists of potential jurors and his subsequent selection process, as shown in the following analysis.¹⁹⁶

Manipulation of the jury lists

Examination of the jury lists shows noticeable features. Sometimes the men were arranged in alphabetical order of surname, and at other times the arrangement seems random. The alphabetical method seems somewhat inefficient or even mistaken, because it meant that men with names such as Watkin or Vaughan were unlikely to ever sit as jurors, and it would be the same families, the Ashtons, Benbows and

¹⁹⁶ Bentley asserts that the compilation of the lists was done by poorly-paid Sheriffs' clerks, but it is clear from a comparison of handwriting and signature on the Montgomeryshire lists, that these were drawn up by the Sheriff himself, see for example Figure 6.6. The names of potential jurors were supplied by the overseers of each parish and delivered to magistrates at Petty Sessions regularly. For example, it was reported that in Machynlleth Petty Sessions in September 1869: 'The jury lists for the different parishes were presented for verification and sworn to by the respective overseers of those parishes, as the law requires.' *N.W.E.*, 5/10/1869.

Breezes, etc., who were selected time and time again. Moreover, the alphabetical method meant that very often a jury box was dominated by farmers who often constituted a majority in the lists of potential jurymen. (See Figure 6.11). These flaws appear to have been identified by the magistrates themselves, for spreadsheet analysis reveals that the alphabetical method, which was used consistently for at least nine Sessions, was discontinued after Hilary 1871. (Table 6.2). The new method may have been a directive from perhaps the Lord Lieutenant, or a decision taken by the wider Bench.

The usefulness and significance of the change becomes apparent when consideration is made of the pools of potential jurors supplied from parishes where there was a preponderance of farmers. For example, at the Hilary Sessions of 1875, if the list had been put into alphabetical order, nine farmers would have appeared in the jury box along with three retailers. However, the new arrangement written down by the sheriff for this Session, with non-farmers placed at the top of the list, resulted in a selection of three farmers, seven retailers and two skilled manual workers. List after list from 1871 onwards show retailers and manual workers placed at the top, resulting in more of them being represented in the box. The situation where the percentage of non-farmers taking a seat in the jury surpassed their percentage in the list of potential jurors, as a direct result of this new method, is illustrated in tabular form and graphically in Table 6.3 and Figure 6.12 respectively. These Sessions were chosen to illustrate the point because they were ones at which large numbers of farmers featured in the lists of men from which the High Sheriff selected the juries.

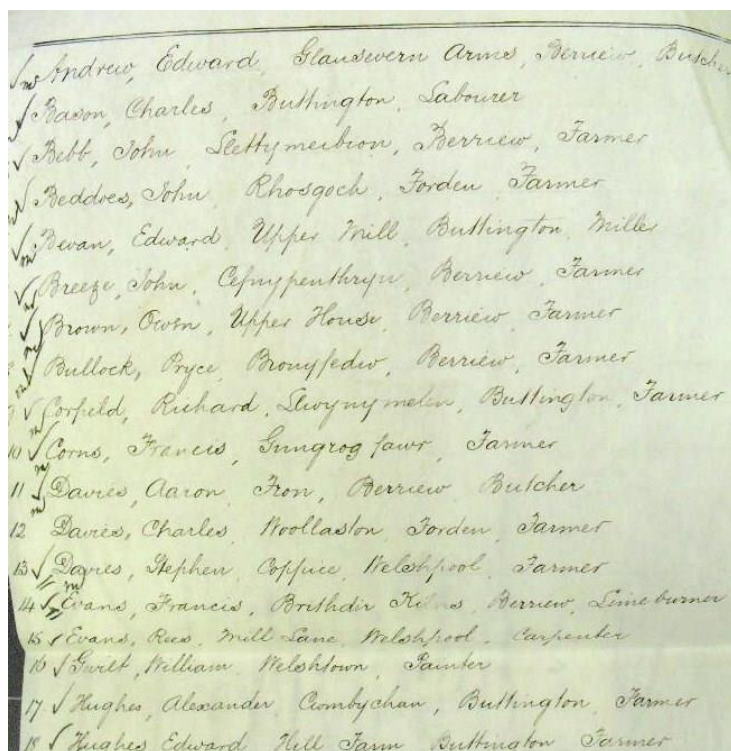


Figure 6.11: Jury list for Hilary 1869.

The alphabetical arrangement meant that the 12 men selected included nine farmers.
((Jury lists, P.C.A. M/Q/SR 1869-78))

Session	Information
1869 H-1871 H	Arranged in alphabetical order of surname; first 12 men selected. Not clear who was selected in Hilary 1871.
1871 E – MS 1871	Not in alphabetical order; non-farmers placed at top of list; first 12 men selected
1871 MM	Data mainly illegible
1872 H – 1873 MM	Not in alphabetical order; non-farmers placed at top of list; first 12 men selected (data for Easter 1872 & 73 unavailable)
1874 H	Not in alphabetical order, only 1 non-farmer listed, appears at top of list. Jurors appear to be picked randomly. (Data for Easter 1874 unavailable)
1874 MS & MM	Not in alphabetical order, non-farmers at top of list; first 12 men picked
1875 H & E	Not in alphabetical order, mix of farmers and non-farmers placed at top of list; unclear if High Sheriff marked all who turned up
1875MS	Not in alphabetical order, mix of farmers and non-farmers placed at top of list; first 12 selected
1875 MM	Not in alphabetical order, non-farmers placed at top of list; unclear if High Sheriff marked all who turned up
1876 H – 1876 MS	Not in alphabetical order, non-farmers placed at top of list

1876 MM	Not all data available
1877 H – 1878 MM	Not in alphabetical order, non-farmers placed at top of list (data for Michaelmas 1877 unavailable).

Table 6.2: Information from the petty jury lists 1869-78
(Jury lists, P.C.A. M/Q/SR 1869-78)

Session	Total number of attenders	No. of farmers	No. of non-farmers	Percentage of non-farmers in the list	Percentage in the jury
1873 MS	28	23	5	17.9	25.0
1873 MM	24	17	7	29.2	41.7
1874 H	26	25	1	3.8	8.3
1874 MS	26	21	5	19.2	33.3
1876 E	26	20	6	23.1	41.7
1876 MS	25	19	6	24.0	33.3
1877 MM	25	22	3	12.0	17.0

Table 6.3: Comparison of percentage of non-farmers in the list and Percentage in the jury

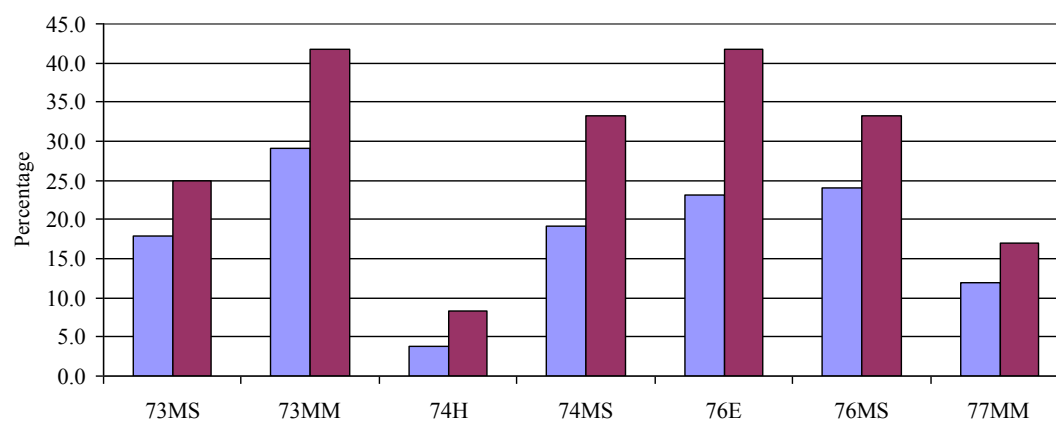
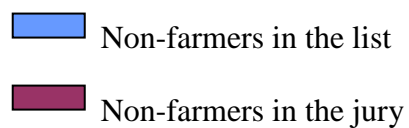


Figure 6.12: Comparison of non-farmers in the list of potential jurors and in the jury



The change becomes more apparent when the same analysis is done for Sessions prior to 1871, shown in Figure 6.13. Here it can be seen that, apart from Hilary 1869, the percentage of non-farmers in the jury was below the percentage in the lists.

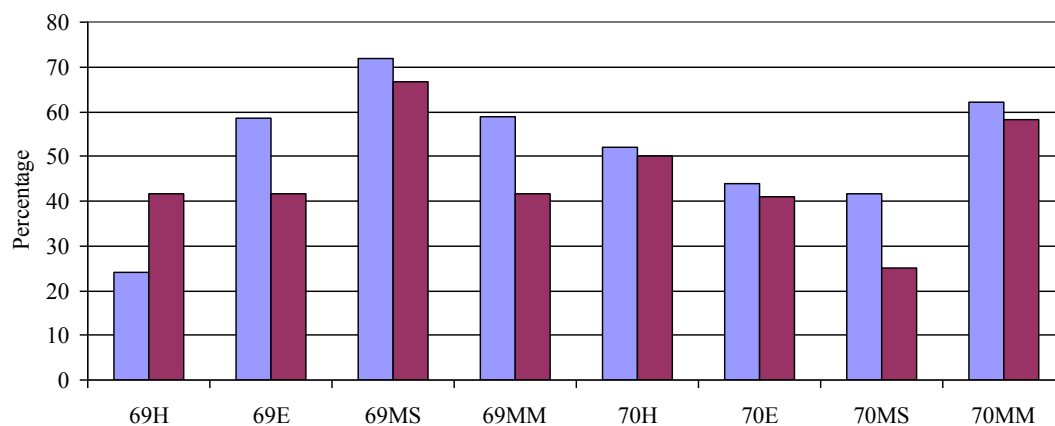


Figure 6.13: Comparison of non-farmers in the list of potential jurors and in the jury, prior to 1871



This analysis shows that, although the wider general public – in the form of the juries – had a say in judgements made at Quarter Sessions, they nevertheless were controlled by manipulation of the jury lists by the High Sheriff. This manipulation allowed a greater range of backgrounds to take part than might otherwise have appeared, which some people may consider to be fairer, although it was still men of the middling sort only who formed the jury and therefore still unrepresentative of the general community.

The same manipulation was evident in the compilation of the grand jury lists, but whereas Montgomeryshire adopted this method and carried it out consistently from Easter 1871 onwards, inspection of the records of neighbouring Shropshire show that the old practice of alphabetical arrangement continued. The inappropriateness of this method is shown in, for example, the grand jury at the Hilary 1873 Sessions held in

Shrewsbury, when the grand jury consisted of 21 farmers and one gentleman.¹⁹⁷ This shows that the change was not due to a nationwide directive from the Lord Chancellor, and was not likely to have been from Chairman of the Montgomeryshire Bench, the Earl of Powis, as he also regularly sat on the Shropshire Bench.

Magistrates' discretion

Clothing theft formed about 40% of cases at both Petty and Quarter Sessions, and at both types of court the item stolen was often a pair of boots. The cases of clothing/footwear theft heard at Petty Sessions were clearly suitable for summary appearances as the defendant was either a juvenile or pleaded guilty, and in one of the cases there was a suspicion that the man had been 'set up'. The indicted cases that arrived at Quarter Sessions mostly showed features that made them more serious. For example, the theft might have involved the loss of other items which made the total value higher, or the accused person pleaded not guilty or had previous convictions. One of the boot thefts was remarkable, however. This case involved 12 year-old Walter Ruscoe who, as a juvenile, should not have appeared at Quarter Sessions.¹⁹⁸ Moreover, he was sentenced to a term of imprisonment, albeit just one day, and 12 strokes with a birch rod.¹⁹⁹ This seems an unusually harsh sentence as analysis of offences committed by children and dealt with at summary courts in the present study shows that they were treated in a non-severe way in all but one case. This one case resulted in a short prison sentence followed by reform school. Generally the children would be discharged, or receive six strokes. It is perhaps significant that the child who was sent to reform school stole from a farmer who appeared on jury lists,²⁰⁰ and Walter Ruscoe stole from a skilled craftsman who had been on the Hilary Sessions grand jury six months earlier.²⁰¹

¹⁹⁷ *The Shrewsbury Chronicle*, 3/1/1873. See also Shropshire Quarter Sessions Orders, 1840-89, Shropshire Archives.

¹⁹⁸ Juvenile Offenders Acts of 1847 and 1850 (discussed in Phillips, *Crime and Authority*, p. 97). See also Bentley, *English Criminal Justice*, p. 19.

¹⁹⁹ *N.W.E.*, 5/7/1870.

²⁰⁰ The case of Henry Poole, *N.W.E.*, 8/8/1870. The victim was farmer Thomas Hilditch who was a grand juror at Easter Sessions 1873 and a petty juror at Hilary Sessions 1875.

²⁰¹ Charles Morris served at Hilary Quarter Sessions in 1870. For discussion of juvenile delinquency see H. Shore, *Artful Dodgers: Youth and Crime in Early 19th-Century London* (Woodbridge, 2002); M. May, 'Innocence and experience: the evolution of the concept of juvenile delinquency in the mid-nineteenth century', *Victorian Studies*, 17 (1973), pp. 7-29; S.

There were five magistrates on the Bench on the day that Walter Ruscoe appeared *viz.* Sir Watkin Williams Wynn, who was deputy chairman of the Bench; John Robinson Jones, Major Drew, the Rev. Canon Herbert and Richard Jones. It appears that Ruscoe's heavy sentence was formulated by the first two magistrates in the list as it has been shown how Major Drew was well known for his leniency, and he, the Rev. Herbert and Richard Jones had sat on similar cases at Petty Sessions where discharges or six strokes were given to children. In the one summary case where the prison/reform school sentence was given to a child, it was Robinson Jones who was in the chair. The Walter Ruscoe case, therefore, is important because it shows how analysis of court reports can indicate certain characteristics of the justices involved. It also illustrates how the magistrates on the Bench worked together, and how discretion came into play, for after the sentence was announced to Ruscoe, the Bench adjourned and on their return, the sentence was revised. The boy would now receive just the one day in prison and no beating. It may have been that Drew, Herbert and Jones convinced the other two that a less severe sentence should be imposed, and one can picture these men in the retiring room, arguing the point.

Offences involving violence

After thefts, assaults formed the next most common charges heard, although they constituted only 10 percent of the cases at Quarter Sessions. In all of the assault cases, the attack was made worse by involving indecency, biting or the use of a weapon, most commonly a knife. Several assault cases of this type had been dealt with at Petty Sessions. These were as serious as those in the higher court, so it is unclear why the Petty justices did not send them to the higher court. Indeed, a case involving the assault of P.C. Daniel Richards with a knife in Newtown seems more serious than the assault of P.C. Lewis with a stick in Welshpool a few weeks earlier, and yet the Newtown Petty magistrates did not send the knife case to the higher court but dealt with it summarily. P.C. Lewis's stick case went to Quarter Sessions.²⁰² Major Drew

Margerey, 'The invention of juvenile delinquency in early nineteenth-century London', *Labour History*, 34 (1978), pp. 11-25.

²⁰² *N.W.E.*, 5/1/1869 and 12/1/1869 respectively.

and Richard Jones, both involved in the Walter Ruscoe case, were the magistrates who dealt with P.C. Richard's knife assault and were often among the justices who kept serious assaults in the lower courts. Capt. Crewe-Read shed light on such decision making when delivering the sentences of himself and Major Drew on an assault case in October 1869:²⁰³

[We] consider that a brutal and cruel assault had been committed on an old man. It appeared [the accused men] had been at militia practice and were returning, and with the weapon that they were allowed to use had inflicted the injuries from which the complainant suffered. The crime committed was a serious one, one which – if they were convicted at the Sessions may render them liable to penal servitude or a long term of imprisonment. [We have] decided to deal with the case summarily.

Their leniency went on. The initial sentence given to one of the accused in this case was imprisonment for one month. The man begged for a fine instead, and Crewe-Read and Drew agreed to revoke the imprisonment and sentenced him instead to a fine of £5. Thus, although at Quarter Sessions magistrates' opportunities for discretion were reduced owing to the role of juries, they could still be circumspect when sentences were decided.

Sentencing

As Quarter Sessions dealt with offences deemed more serious, it is expected that the sentences imposed upon conviction would be more onerous. Every sentence handed down in this study of 352 cases during the period 1869-78 was imprisonment, even though many of the cases seemed no worse than those heard at the lower court where a fine was the normal sentence. A survey of the sentences gives an impression of randomness at times, for example Edward Hampson, with no previous convictions, received 12 months hard labour for stealing fowls but John Mills, with a similarly clean record, received six months for the same offence. Both had pleaded not guilty.²⁰⁴ Certain classes of crime received logical sentences as in the case of Elizabeth Williams who stole £10 and received three months, and Frances Jones who

²⁰³ *N.W.E.*, 5/10/1869.

²⁰⁴ *M.E.*, 9/7/1878; 8/01/1878.

stole £15 and received six months.²⁰⁵ Consistency was usually seen in the sentencing of young people, who received two or three weeks in gaol followed by three or five years in a reformatory. This agrees with Bentley's statement that 'in 1854 courts were empowered to sentence offenders aged under sixteen to a term of at least 14 days' imprisonment, followed by two to five years in a reformatory school.'²⁰⁶

Penal servitude was given in 22 of the 352 cases. It is clear that the justices considered this type of incarceration to be different from ordinary custody with hard labour, which they gave in 203 cases. Penal servitude was meant as a replacement for transportation, although at the time that the first Penal Servitude Act was passed in 1853, transportation still existed and penal servitude ran alongside.²⁰⁷ Table 6.3 shows lengths of penal servitude and their corresponding transportation sentences, indicating that the former was considered more onerous than transportation.²⁰⁸

Length of penal servitude sentence (years)	Equivalent length of transportation (years)
4	7
4-6	7-10
6-8	10-14

Table 6.4: Length of penal servitude and corresponding length of transportation as set out by the first Penal Servitude Act of 1853

²⁰⁵ *M.E.*, 9/7/1878; 12/3/1878.

²⁰⁶ Bentley, *English Criminal Justice*, p16. See Emsley, *Crime and Justice*, pp. 134-41 for a review of criminal justice with regard to children, particularly a discussion about reform being the way to avoid the young person becoming a hardened criminal. See also comment in Chesney, *Victorian Underworld*, p. 144 and Emsley, *Crime and Justice*, pp. 134-138.

²⁰⁷ See Royal Commission on Penal Servitude, *P.P.* 1863, XXI 1.

²⁰⁸ Data from Bailey, *Policing and Punishment*, p. 131. The Penal Servitude Acts of 1853-64 had been on the statute books for several years, and the Habitual Criminals Act became law during the period under study. The former provided a replacement for transportation and incarceration on hulks, and for the mandatory death penalty which had come to an end for all offences except murder and treason. D. Hoffman & J. Rowe, *Human Rights in the U.K.* (2003, Harlow, 2010), p. 148; Bailey, *Policing and Punishment*, pp. 126-144. See also Bentley, *English Criminal Justice*, p. 13; M.H. Tomlinson, 'Penal servitude 1846-65: a system in evolution' in Bailey, *Policing and Punishment*, pp. 126-149. See also Woodward, N., 'Transportation convictions during the great Irish famine', *Journal of Interdisciplinary History*, 37 (2006), pp. 59-87.

Penal servitude for men meant imprisonment with hard labour. There would be an initial few months of solitary confinement at Millbank or Pentonville, followed by transfer to another gaol for the hard labour element which might be road building or stone breaking.²⁰⁹ For women, it meant being sent to Millbank for two months of coir picking followed by cooking, cleaning and laundry at one of the convict prisons.²¹⁰ However, there was much contemporary confusion about the meaning of the term 'penal servitude', and even the Lord Chief Justice in 1856 claimed not to understand it.²¹¹ Jones states that penal servitude was given in exceptional circumstances and gives examples of a poisoning case and the theft of five pounds of pork.²¹²

Investigation shows that Montgomeryshire magistrates gave penal servitude to repeat offenders. For example, at the Easter Sessions of 1870 John Williams received an extraordinary 12 years penal servitude because of his three previous convictions, whereas his co-accused were given 10-12 months ordinary imprisonment with hard labour.²¹³ At the Midsummer Sessions of 1870, hardened criminal Stephen Higgs was given seven years penal servitude but his accomplice, first-time offender Ann Lloyd, received 12 months of ordinary custody with hard labour.²¹⁴ In all the cases but two, a repeat offender received penal servitude. The two exceptions, who received ordinary custody with hard labour, were firstly a 62 year-old man and it seems that he was spared by his age.²¹⁵ The second was a 20 year-old woman for whom the jury asked for mercy. The most common length of penal servitude given was seven years, given in 18 of the 22 sentences. This, according to the table above, would correspond to 10-14 years of transportation. An investigation of transportation lengths given by

²⁰⁹ Moody describes in detail the treatment of Fenian Michael Davitt who was convicted at the Old Bailey in 1870. T.W. Moody, 'Michael Davitt in penal servitude', *Irish Quarterly Review*, 30 (1941), pp. 517-530. His period of hard labour was spent at Dartmoor where he was a co-inmate with Newtown offender Stephen Higgs, the pimp of prostitute Ann Lloyd, convicted at the Midsummer Sessions 1870. *Pentonville register*, T.N.A, HO24/192.

²¹⁰ Hawkings, *Criminal Ancestors*, p.23.

²¹¹ Bailey quoting evidence given to the 1856 Commission on Penal Servitude, *P.P.* 1856, 17 (355) in Bailey, *Policing and Punishment*, p.134. See Taylor, *Crime, Policing*, pp. 120-1 and p. 160 for discussions about penal servitude.

²¹² Jones, *Crime*, p. 231.

²¹³ *N.W.E.*, 15/3/1870

²¹⁴ *N.W.E.*, 5/7/1870.

²¹⁵ *N.W.E.* 15/3/1870.

Montgomeryshire Quarter Sessions between 1850 and 1868 duly shows that 10 years was the most common length, followed by seven years. (Figure 6.14).²¹⁶ Thus the sentencing involving penal servitude was following a pattern of transportation set years previously.

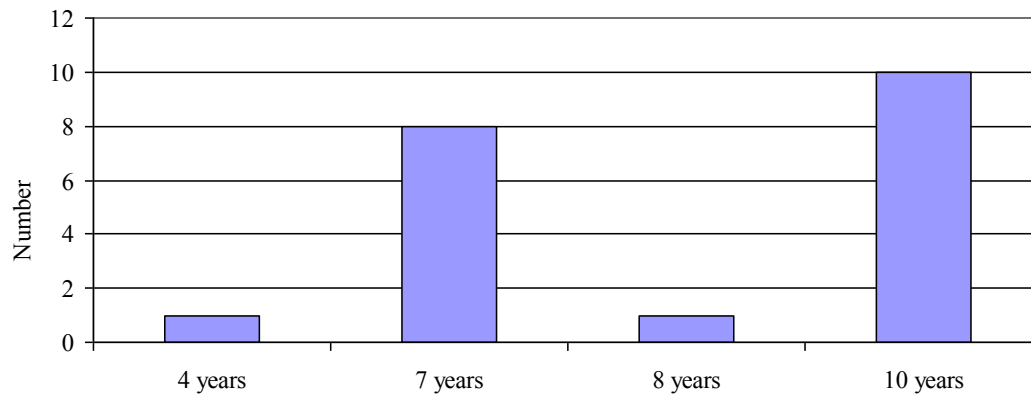


Figure 6.14: Number of sentences of transportation given out by Quarter Sessions, 1850-6

By giving the distinctive punishment of penal servitude to repeat offenders, the Montgomeryshire magistrates were adding to what George Pavlich perceives as society's creation of a discrete being, the habitual offender.²¹⁷ Study of the sentences also shows that the magistrates adopted the surveillance terms of the Habitual Offenders Act enthusiastically. The Act came into use in August 1869 and the Montgomeryshire Bench implemented it at the next Session. From then on, most of the convicts who received penal servitude followed by surveillance were given the maximum period of surveillance allowed (7 years). Even some prisoners who received a short term of ordinary custody sometimes received the maximum

²¹⁶ Data from B. Owen, *Transportation by Montgomeryshire Courts, 1788-1868* (Llanidloes, 2003), pp. 86-213. Owen gives data from 1788, but the earliest data has not been used to construct the Figure as thoughts about transportation being a substitute for execution might have affected the committing magistrates' thinking (no person was hanged in England except for murder after 1838: Bentley, *English Criminal Justice*, p. 13). The Figure also does not use data which was originally given as penal servitude but which subsequently became transportation. See Jones, *Crime*, pp. 227-229 for his discussion on the implications of transportation for Wales, and D. Beddoe, *Welsh Convict Women* (Cowbridge, 1979).

²¹⁷ G. Pavlich, 'The emergence of habitual criminals in nineteenth-century Britain', *Journal of Theoretical and Philosophical Criminology*, 2 (2010), pp. 8-11. V. Bailey, 'The fabrication of deviance: "dangerous classes" and "criminal classes" in Victorian England', in J. Rule and R. Malcolmson (eds), *Protest and Survival: The Historical Experience; Essays for E.P. Thompson* (London, 1993), pp. 221-56.

supervision. For example, Thomas Thomas, who had committed an offence in 1859, upon being convicted of stealing hay in 1870 was given three months hard labour followed by seven years of police supervision.²¹⁸ Habitual criminals had first been defined in 1833 and a Select Committee of 1838 further described them as those who made their livelihood by the repetition of offences. Seven months before the justices started implementing surveillance, a *Times* editorial stated that habitual criminals were ‘the enemies of society of which we wish to rid ourselves’.²¹⁹ Perhaps the Bench was trying to save the county.²²⁰ Alternatively, they may have been considering the fate of the convicts’ families, as a man at home could provide for his family whereas a man inside could not. Perhaps by giving Thomas Thomas a long period of surveillance the justices may have been saving ratepayers from several years of poor relief.²²¹ One remembers Thomas Barrett’s speech when he became mayor, and thereby chairman of the Welshpool Bench:

I assure you I feel very proud of the position you have placed me in this morning...I shall make it my study to do all that I possibly for the interest of the ratepayers, unbiased in every form, and if I do make a mistake, it shall be an error of judgement and nothing else... I thank you very much for the confidence you have placed in me today and I hope that this day 12 months you will be pleased with what I have done. It will be a pleasure to me to carry out everything for the interest of the ratepayers (applause).²²²

Thus it can be seen that the magistrates were demonstrating the same sort of discretion seen at Petty Sessions, although this could take place only when it came to sentencing, as their options for judgements were now in the hands of the jurymen. John Langbein identified the bifurcation of the trial court, stating that: ‘By isolating the judge [or magistrate] from the work of fact-finding ... [the judge or magistrate] is so remote from the core function of adjudication that he is only peripherally

²¹⁸ *N.W.E.*, 25/10/1870.

²¹⁹ Pavlich, ‘The emergence’, p. 10. The editorial appeared in *The Times*, 10/3/1869, p. 9.

²²⁰ For discussion see Godfrey, *Serious Offenders*, pp. 190-196.

²²¹ Peter King makes a comment about this in ‘Decision-makers and decision-making’, p. 42.

²²² *N.W.E.*, 15/11/1870.

responsible for the court's decision'.²²³ Juries could also influence sentencing as in the case of William Lewis, convicted of unlawfully knowing and abusing a child.²²⁴ The chairman of the Bench 'dwelt with great severity on the heinousness of the crime' and yet felt restricted in the gaol term he and his colleagues could give because the jury had requested mercy to be shown. The man received 18 months with hard labour.

The influence of Quarter Sessions on the lower courts

While the jury system restricted the magistrates' discretion in some respects, there was a way in which it provided the justices in the lower court with an extra option. This is illustrated in a case from 1869, when a serving girl accused her employer's husband of assault.²²⁵ The case was heard by Major Drew and Richard Jones in the clerk's office in Newtown. After hearing all the evidence from both sides, and a lengthy period in the retiring room, Major Drew announced:

We have gone into this case more fully than is usual in such cases, from a desire to discharge our duty properly towards both parties. There is great discrepancy in the evidence give; on the girl's part there is a positive assertion of acts that go far to support the charge made by her. This, on the other hand, is contradicted by positive testimony on the part of the defendant. Under these circumstances we think that it is a case for a jury, and not for us to say whether the complainant is, or is not, to be believed.

Each side may have been frustrated that his or her story was not given preference, but from the magistrates' point of view, whichever side they believed, there could be dissatisfaction from parts of the community. By 'passing the buck' to Quarter Sessions and hence to the juries, they could wash their hands, Pilate-like, and put the onus for the decision onto the local community. In due course this case was dismissed by the grand jury at the Easter Sessions.²²⁶ It is interesting to note that by explaining the reasons for the Bench's decision, Major Drew was following the modern practice

²²³ J.H. Langbein, 'The bifurcation and the bench: the influence of the jury on English conceptions of the judiciary', in P. Brand and J. Getzler (eds), *Judges and Judging in the History of the Common Law and Civil Law: From Antiquity to Modern Times* (Cambridge, 2012), p. 68.

²²⁴ *N.W.E.*, 5/7/1869.

²²⁵ *N.W.E.*, 23/2/1869.

²²⁶ *N.W.E.*, 16/3/1869.

of giving reasons,²²⁷ and not the usual nineteenth-century practice of ‘putting together of heads’ and the sentence being given without explanation.

Conclusion

Although Petty and Quarter Sessions were both courts dealing with local matters, and included magistrates sitting on the Bench in both, the tone of the justice delivered was different in the two arenas. We saw in the previous chapter an example of the Llanidloes Petty Bench retiring with the defendant, a fellow justice, and dealing privately with the matter. The same Bench conducted a trial entirely in Welsh with no translation provided. This level of ability to dispense discretion in the lower court was useful to many, and all manner of disputes were brought by people to the forum. We see now, however, at Quarter Sessions that many opportunities for discretion were removed from the magistrates and placed in the hands of the juries. The jurymen’s presence in court was determined by their financial and social status, and reflected the growing influence of the middle classes. The secrecy of the grand jury mirrored that of the Bench’s retiring room and gave an advantage to the complainant who was able to present his or her case in private. It was at this stage that the case against John Pilot was quashed, and while the circumstances of that decision will never be known, it was after the grand jury hearing that Pilot pursued Sgt Ross for perjury.

A complainant may have gone to considerable effort to pursue the offender. Many could be helped in this via membership of a felons association which assisted with the payment of costs. An association may also have paid a police officer to track down the suspect. Even without membership of such a group, available funds made prosecution a more accessible option, with the example of widow Edwards showing how the case could go forward only with the financial support of a willing neighbour. Being part of the set who paid rates meant inclusion on jury lists which gave instant access to court decision making. Time and time again, overlaps were seen between complainants, jurymen, and felons association members. Such court users may well have expected the justice system to be on their side, especially when people such as chairman of the Welshpool Bench, Thomas Barrett, spoke of doing everything he

²²⁷ An appeal hearing at Mold Crown Court, 16/8/2013, was allowed to take place partly because the convicting Bench had not given their reasons for the conviction. The appeal was upheld.

could in their favour albeit speaking at that time in his role as mayor. Although the administration of justice was controlled by men, women of the middling sort could also have particular expectations from the system. They were unlikely to have to share the waiting room with the lower sorts at Petty Sessions, and could rely on being represented in Sessions by a policeman if desired although this might have involved a fee.

Although much of the discretion available to the magistrates at Petty Session was missing in the higher court, two avenues were open to them. First, the jury lists were found to have been manipulated by the High Sheriff, a magistrate acting in a superior role, and secondly, in the handing out of sentences. The same sort of discretion observed in the lower court, sometimes giving the appearance of randomness, was seen again. They did not have complete control over this area, however, as petty jurors were able to influence levels of sentencing from their box. There is some evidence that sentencing could have been for the benefit of ratepayers.

The following chapter will look closely at the most prevalent crime, namely theft, and the perpetrators of these offences. The opportunities and the roles played by gender will be considered in particular.

Chapter 7

Theft offences

Material Culture, Gender and Opportunity



The previous chapter concentrated on those people, mainly men, who made decisions in court and in the procedures leading to court appearances. The present chapter will look more closely at the crime seen most often at Quarter Sessions, namely theft. The offenders, as well as complainants, will be studied, as well as both groups' engagement with the legal process. There will be an examination of the relative experiences of men and women, and an investigation into whether the location of crime had a gendered nature. The different rhythms and patterns of male and female daily lives may have had an effect on their motivations for theft and on their *modi operandi*, and this will be explored.²²⁸ An attempt will also be made to determine the attitudes and motivations of offenders and complainants through a study of their own comments made in depositions.²²⁹

Background

²²⁸ Lynn Mackay investigated this using data from the late eighteenth century and argued that differing patterns made a distinct difference. L. MacKay, 'Why they stole: women in the Old Bailey, 1779-1789', *Journal of Social History*, 32 (1999), pp. 623-639. Note that the theory of criminological modernisation, which interprets the effects of socio-economic change on crime, includes consideration of changing opportunity. Council of Europe, *Crime and Economy: Reports Presented to the 11th Criminological Colloquium*, 1994 (Strasbourg, 1995), pp.17-20.

²²⁹ For discussions on attitudes see S. Howard, *Studies in Welsh History: Law and Disorder in Early Modern Wales, c. 1660-1730* (Cardiff, 2008) and S. Howard, 'Crime, Communities and Authority in Early Modern Wales: Denbighshire 1660-1713', unpublished Ph.D. thesis, University of Wales, Aberystwyth (2003).

Criminality was largely a male domain. Throughout Wales and England, men constituted the majority of defendants.²³⁰ Histories of crime have, therefore, concentrated on males, and thus, as Garthine Walker has argued, inadequately accounted for fundamental gender discrepancies.²³¹ Walker contends that few studies have dealt with gender as an analytical category.²³² Her own study of the characteristics of female property offences in the early modern period provides valuable details about the *modi operandi* of female offenders and their patterns of crime.²³³

A review of the cases seen in court

A total of 352 cases appeared before the county Bench between Hilary 1869 and Michaelmas 1878. The number of represented defendants varied considerably from year to year. When the request of barristers to be given right of attendance was under consideration by magistrates in 1871, one of the objections raised was that the cost would be prohibitive to many ordinary people.²³⁴ However, although initially the use of counsel seemed unpopular, with only 19% of defendants who pleaded not guilty retaining counsel in 1874, in most years the percentage having representation was much the same as it had been during the first three years of the decade and was sometimes significantly higher. (Figure 7.1).

²³⁰ Jones, *Crime*, p. 171; A. Barrett and C. Harrison (eds), *Crime and Punishment in England – A Sourcebook* (Keele, 1999), pp. 190-192. For the period 1740-1847 in various English counties (and for England and Wales, 1805-1853) see Tables 6.1-6.5 and Figure 7.1 in P. King, *Crime and Law* (Cambridge, 2006), pp. 201-206. For Surrey 1666-1802 see J. M. Beattie, 'The Criminality of women in eighteenth-century England', *Journal of Social History*, 8 (1975), p. 81.

²³¹ G. Walker, *Crime, Gender and Social Order* (Cambridge, 2003), pp. 159. King makes the comment: Historians working on major indictable crimes were, like most criminologists, slow to pick out gender as an important variable. King, *Crime and Law*, p. 196.

²³² See, however, Beattie, 'The criminality of women', pp. 80-116; Zedner, *Women*; A. Morris, *Women, Crime and Criminal Justice* (Oxford, 1987); M. M. Feeley and D. L. Little, 'The vanishing female: the decline of women in the criminal process, 1687-1912', *Law & Society Review*, 25 (1991), pp. 719-757; King, *Crime and Law*, pp. 165-222. Humphreys' work on early modern Montgomeryshire contains a very general review of crime with regards to gender. Humphreys, *The Crisis*, pp. 217-251.

²³³ Walker, *Crime, Gender* pp. 159-209

²³⁴ For more on the barristers' request, see Chapter 9 of the current work.

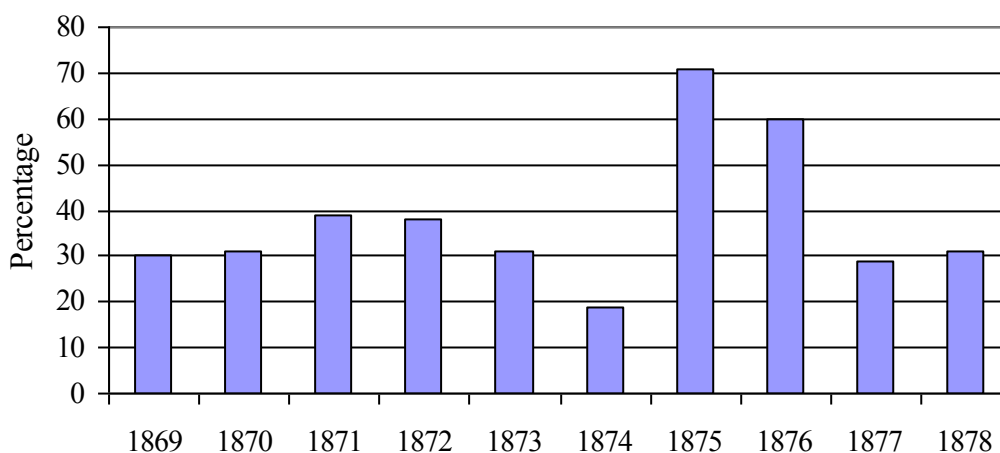


Figure 7.1: Percentage of defendants pleading not guilty who retained legal representation. (Barristers gained right of audience in 1872)

Figure 7.2 shows the number of cases appearing at Quarter Sessions during the decade. The chart shows a generally downward trend, similar to that for the whole of Wales as noted by Jones and shown in Figure 7.3.²³⁵

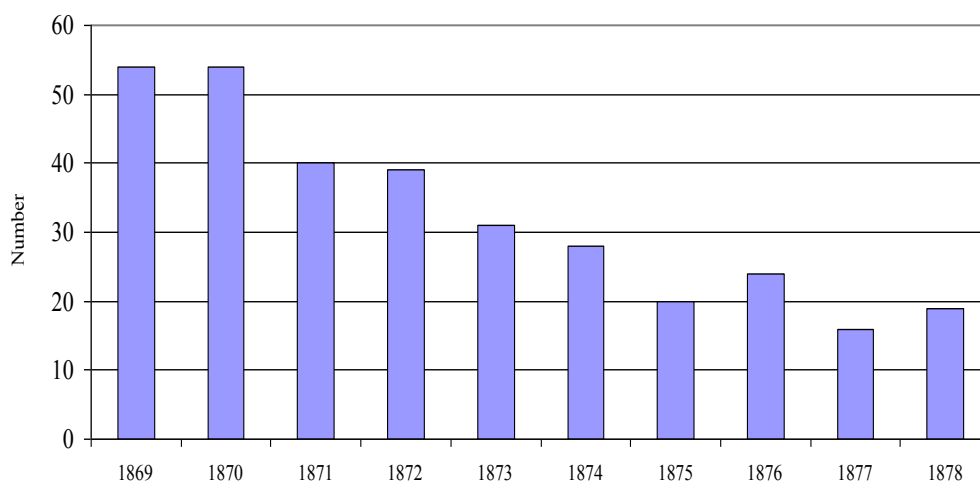


Figure 7.2: Number of offences appearing at Montgomeryshire Quarter Sessions, 1869-78 (352 in total)

²³⁵ Crime was declining over much of Europe at this time. See European Committee on Crime Problems, *Crime and Economy: Reports Presented to the 11th Criminological Colloquium, 1994* (Strasbourg, 1995), p.25

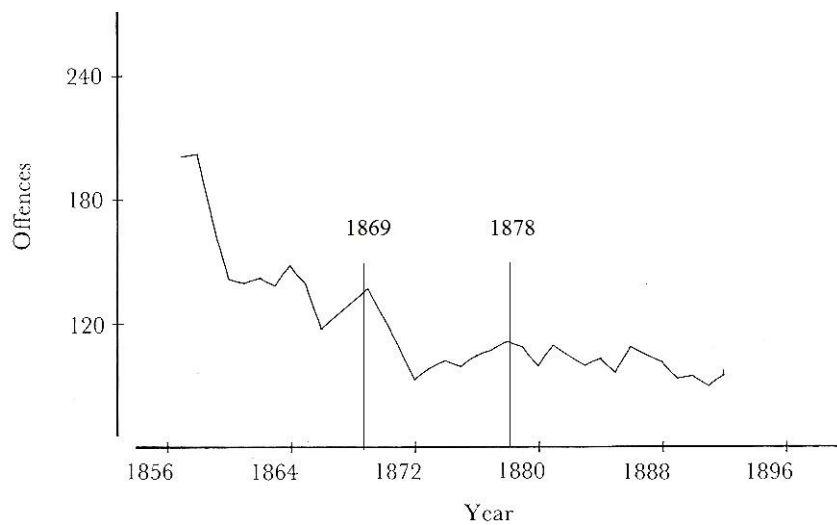


Figure 7.3: Rate of change of indictable offences known to the police over the whole of Wales, 1857-92.²³⁶

The most prolific offence prosecuted in court in Montgomeryshire was theft, but other notable offences were breaking and entering (which nearly always included theft of items) and assault. Receiving stolen items also featured, and the crimes categorised here as ‘other’ included uttering counterfeit coins, animal maiming, attempted arson, the vagrancy offence of being a rogue and vagabond, deserting a child and attempted suicide. Figure 7.4 shows the offences seen in court each year.

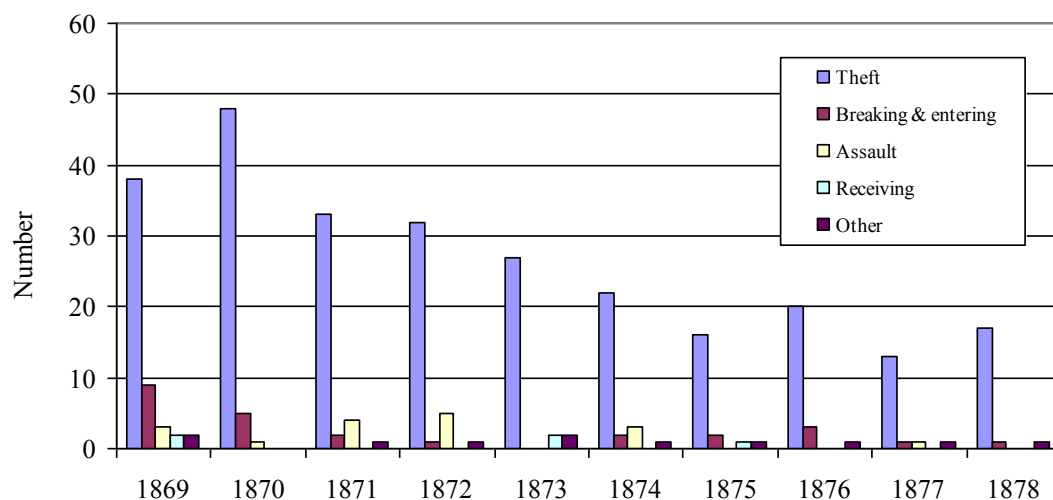


Figure 7.4: Offences as seen in court each year. (352 in total)

²³⁶ Jones, *Crime*, p. 32. See also V.A.C. Gattrell, ‘The decline’ pp. 238-370.

This downward trend continued to the end of the century and was also seen in England and elsewhere in Wales. Jones discusses the figures for different regions and concludes that the rate was lower in rural areas, and he makes comparisons between heavily-industrialised areas such as Merthyr and less built-up areas such as Pwllheli. Reasons given for the difference include the character of the peasantry and a co-operative mentality among members of the rural community. Deference or a 'feudal dependence' is also cited as a reason for a lower rate of crime in rural areas.²³⁷ We have already noted how lack of policing in rural areas may have resulted in a lower level of recorded crime. Figure 7.5 shows the occupations of offenders in graphical form. The familiar appearance of unskilled workers in the dock is evident, but the occupations of a third of the accused were unknown. Multiple crimes committed by individual offenders account for the anomaly between the numbers of offences and offenders.

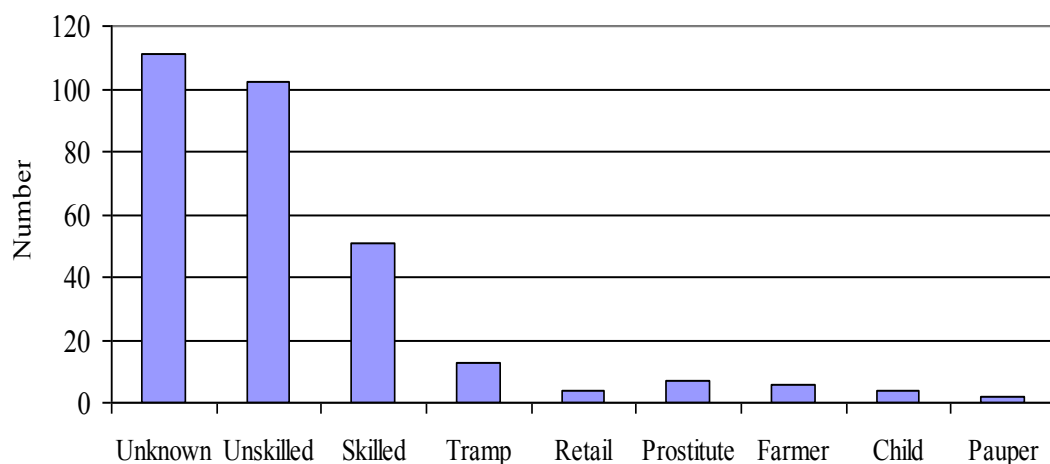


Figure 7.5: Occupations of accused persons (352 in total)

Contemporary thoughts about crime

It was acknowledged that crime was largely an urban problem. There was a focus on London in much public discussion, with many of the more alarming and best-publicised nineteenth-century offences being committed there. As the century progressed, crime was increasingly publicised in the other burgeoning urban

²³⁷ See Jones, *Crime*, pp. 37-45 for a detailed discussion.

environments, where a growing proportion of the public was located.²³⁸ Thomas Plint declared that:

‘The pickpocket and the thief can find no nesting place amongst the statesmen of Cumberland and Westmorland, or the miners of Durham and Cornwall. They fly to Birmingham, London, Manchester, Liverpool, Leeds. They congregate where there is plenty of plunder, and verge [greenery] enough to hide in.’²³⁹

James T. Hammick emphasised that the criminal classes were mainly found in towns, and generally crime in rural society was not considered to be so serious. Charles Brereton said:

The majority of thieves exist in gangs, practise fraud by profession, and live by a constant series of depredations... criminals in the country only occasionally once or twice a year steal a sheep, pig, corn hay, wood, turnips, poultry as the case may be.²⁴⁰

Journalist Angus Bethune Reach, however, like many others in the 1830s and 40s, identified a ‘startling’ amount of crime in rural areas, out of proportion to the number of people living there, and believed that this was the result of rural poverty.²⁴¹ Others have identified rural dwellers as more prone to violent crime, with urban dwellers being more likely to experience property crime.²⁴² Montgomeryshire was a county with both dual characteristics and an investigation was carried out to discover if Montgomeryshire was a small-scale version of the country-wide picture described by

²³⁸ Emsley, *Crime and Society*, p. 114.

²³⁹ Thomas Plint (1851) quoted in Emsley, *Crime and Society*, p. 114. ‘Flying’ to urban areas may have been a reference to the new fashion for railway transport, described as ‘railway mania’ (See ‘Timeline of UK Railways’, <http://www.stationbuffet.co.uk/history4.html> (viewed 5/8/12). ‘Flying’ was later to be incorporated into the locomotive name *Flying Scotsman* when that particular vehicle started travelling the London to Edinburgh route. *Flying Scotsman* viewed at www.bbc.co.uk/ahistoryoftheworld (viewed 5/8/12). The railways provided access to criminal opportunities and a quick getaway. See R. Ireland, ‘An increasing mass of heathens in the bosom of a Christian land: the railway and crime in the nineteenth century’, *Continuity and Change*, 12 (1997), pp. 55-78 for a discussion on railway crime and increased mobility.

²⁴⁰ Brereton quoted in Emsley, *Crime and Society*, p. 115.

²⁴¹ Reach quoted in Emsley, *Crime and Society*, footnote 3, p. 136. Biography of Reach, *D.N.B.*

²⁴² Emsley, *Crime and Society*, p. 120 and footnote 28, p. 139.

Reach and others. Court reports and censuses were used to establish the precise geographical locations of crimes. In a little over a third of the cases, the exact location details could not be found, but from the remaining 218 the following information could be determined. The presence of a resident police officer was adopted as an indication of a settlement being of significant size, and the information shown in Table 7.1 was obtained. The proportions of crimes occurring in populated and isolated areas were 59% and 41% respectively.

County population	67623	Proportion of county population (%)	Proportion of Quarter Session crime (%)
Population having resident policeman	38464	57	59
Population without resident policeman	29159	43	41

Table 7.1: Proportions of Quarter Session crimes related to population.²⁴³

This gives an almost one-to-one correspondence between population and incidence of crime in both areas, which does not support Reach's assertions about rural crime being out of proportion to population and adds weight to Vyrnwy's call for more police activity in less populated areas. However, a focus on Welshpool and Newtown gives the results shown in Table 7.2 and Figure 7.6.

	Proportion of county population (%)	Proportion of Quarter Session crime (%)
Newtown and Welshpool	13	31
Remainder of county	87	69

Table 7.2: Proportion of Quarter Sessions crimes related to the population of Welshpool, Newtown and the remainder of the county

²⁴³ Population figures obtained from *Census of England and Wales, 1871* population tables, Vol. 1 (Counties), p. 11; Volume 2 (Registration or Union), pp. 551-2.

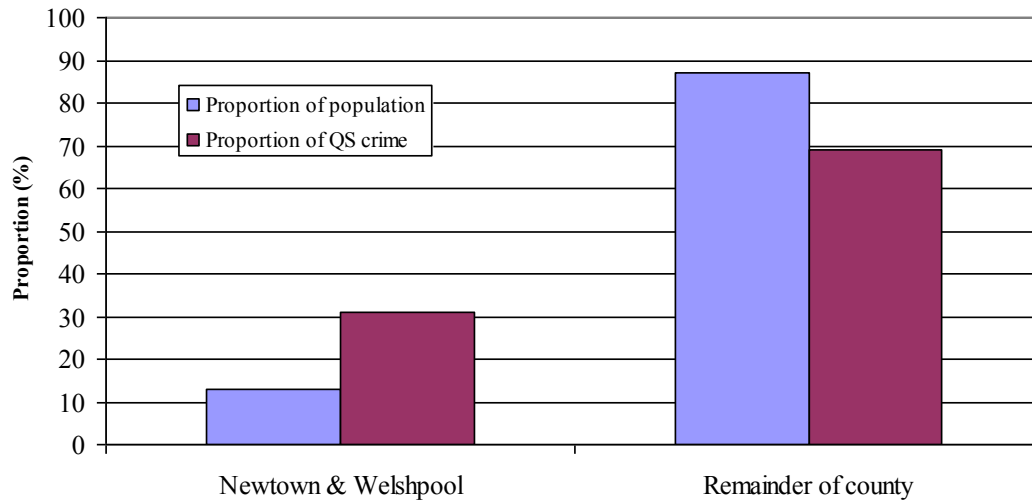


Figure 7.6: Relative proportions of population and crime

This shows that crime was disproportionately high in the two most populous Montgomeryshire towns and justifies the extra officers stationed there – eight in Newtown and seven in Welshpool. In comparison, Llanidloes had two officers and Montgomery had one. Brereton’s comment about rural criminals stealing livestock and crops is reflected in Figure 7.7, with thefts of these commodities being the most common, but almost non-existent in urban locations.

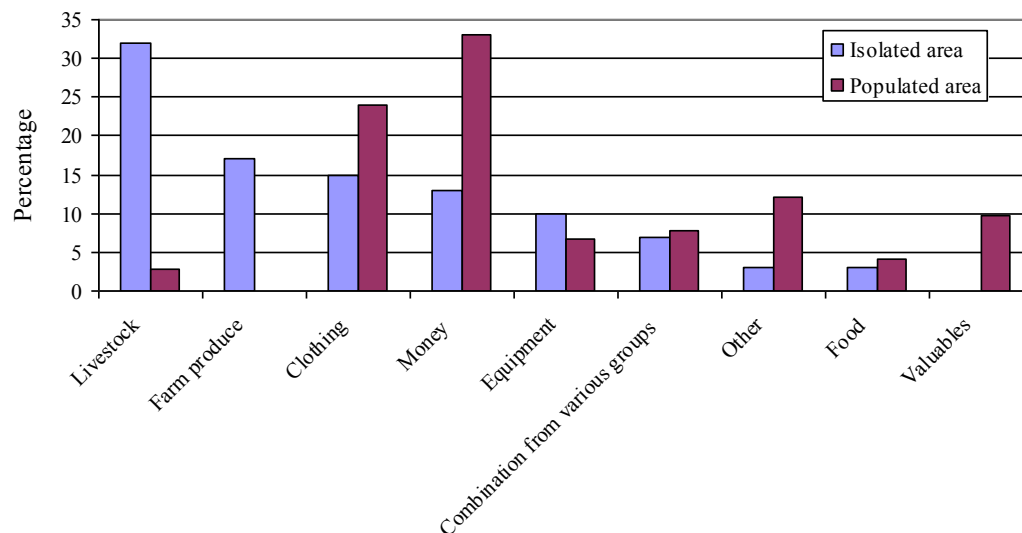


Figure 7.7: Thefts in isolated and populated areas (172 in total).²⁴⁴

²⁴⁴ ‘Other’ includes items such as animal bedding, coal and umbrellas.

Clothing and money were also widely stolen in isolated areas, but constituted only about half as many thefts as livestock and crops. Money was the biggest single target for theft in more populated areas and was approximately equal to livestock thefts in rural areas.

Location of offences

Jones briefly discusses women's contribution to crime in Wales during the nineteenth century, concentrating mainly on a statistical analysis that highlights a disproportionate amount of offending in industrial areas.²⁴⁵ For example, during the middle years of the nineteenth century, 40% of persons committed to the upper courts in Merthyr, Cardiff, Newport and Swansea were women, contrasting 'starkly' with Cardiganshire, where about 1% of apprehended persons were women. The present study found that in Montgomeryshire 18% of the 352 persons appearing in the dock were female and that they were unlikely to commit offences in isolated areas (Figure 7.8).

In general, offences took place in the woman's home area: in a house, which might be the employer's house, on the street or in a shop.²⁴⁶ It has been said that the boundaries of women's lives were circumscribed, with domestic responsibilities keeping them near the home,²⁴⁷ but another reason for not venturing abroad could be that isolation increased the risk of sexual assault. For example, in June 1870, Elizabeth Morris was attacked on the canal towpath near Newtown while on her way home from the market.²⁴⁸

²⁴⁵ Jones, *Crime*, pp. 171-176.

²⁴⁶ In cases where the defendant pleaded guilty, no trial followed and therefore the exact location of the offence is unclear. The data for Figure 7.8 is from the 49 cases where the woman pleaded not guilty thus a trial ensued and more details were given.

²⁴⁷ MacKay, 'Why they steal', p. 629.

²⁴⁸ *N.W.E.*, 5/7/1870. The present study found allegations of sexual assault in the workplace, private homes, on the street and in isolated areas. The lone woman was clearly vulnerable in any place. Louise Jackson briefly discusses the relation of social space and sexual assault in L.A. Jackson, 'Women professional and the regulation of violence in interwar Britain', in D'Cruze, *Everyday Violence in Britain*, pp. 128-130. D'Cruze herself devotes a section to space in *Crimes of Outrage: Sex, Violence and Victorian Working Women* (London, 1998), pp. 30-36.

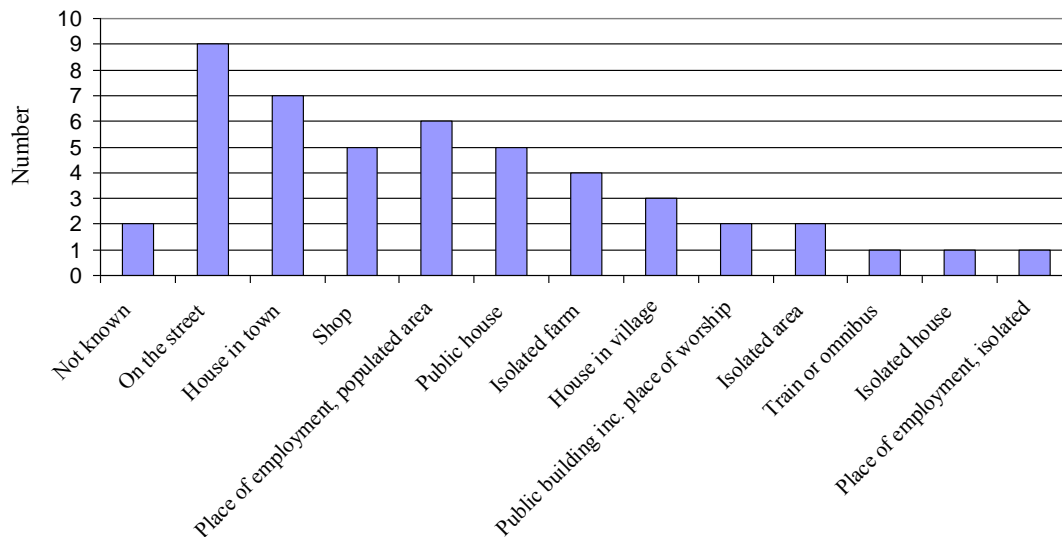


Figure 7.8: Scenes of offences involving women suspects (49 cases where the defendant pleaded not guilty)

Females were largely responsible for purchasing items for the home and family, a responsibility that took them out of the house and into shopping areas. Although this journey from the home left them vulnerable, there were also temptations and opportunities which could turn women into culprits rather than victims. Some shop thefts were clearly opportunistic, as in the case of Frances Jones who was convicted of stealing money from a woman who had momentarily left her handbag on a shop counter,²⁴⁹ and two farm girls who picked up a bonnet from a shop counter while browsing.²⁵⁰ But women could also show a degree of devious behaviour. Elizabeth Hughes claimed to have been sent by her employer to a draper to order a shawl on approval. Little did the draper know that Hughes had recently left the employment and intended to appropriate the item herself.²⁵¹ Another woman engineered a distraction in a shop while waiting to be served, and purloined several waistcoats.²⁵² Theft of clothing by women has been regarded as an indication of ‘petty’ criminality, and said by Walker to be a reflection of lower-class women’s desire to emulate women of a higher status,²⁵³ and the wearing of good clothing could also contribute to

²⁴⁹ *M.E.*, 12/3/1878.

²⁵⁰ *N.W.E.*, 6/7/1869.

²⁵¹ *N.W.E.*, 8/7/1873.

²⁵² *N.W.E.*, 22/8/1873.

²⁵³ Walker, *Women*, p. 87.

increased self-esteem and respectability.²⁵⁴ In nineteenth-century Montgomeryshire, the thieving of such items was found to be slightly higher by men than by women (Figure 7.9), with women showing a greater propensity for theft of money, so is there any indication that women's motivation for theft involve a desire for emulation?

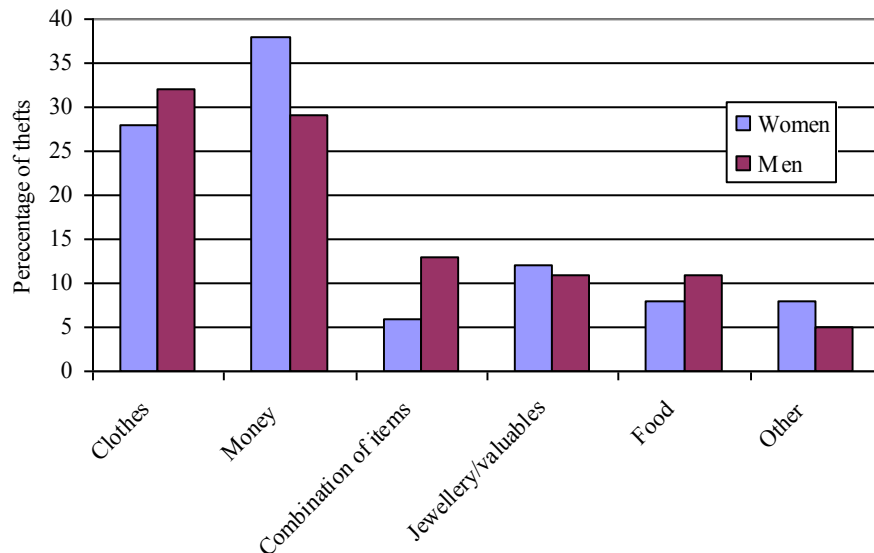


Figure 7.9: Types of thefts committed by men and women (182 in total)

When Elizabeth Hughes was found ‘on the street’ in Newtown after she had deceived a draper into giving her a valuable shawl, she was wearing the garment. When market-stall holder Elizabeth Pilot noticed a bolt of fabric and a silk dress missing, she suspected her employee, Mary Ann Braidsdell, and obtained a warrant for the woman’s lodgings to be searched.²⁵⁵ Found in Braidsdell’s room were the silk dress as well as a garment, described as a tunic, that Braidsdell had made from the stolen fabric. Ann Williams stole a bonnet and a shawl from two different women in Newtown, put them on and was apprehended wearing them, and Mary Ann Nason was found in a pub wearing a silk dress stolen from her employer.²⁵⁶ This could indicate envy on the part of the thief, and the dream of a different self-presentation. Nason was not alone in her efforts to wear fine clothing: in the 1860s, Punch poked

²⁵⁴ R. Wynter, ‘Good in all respects: appearance and dress at Staffordshire County Lunatic Asylum, 1818-54’, *History of Psychiatry*, 22 (2011), pp. 40-41.

²⁵⁵ *N.W.E.*, 10/3/1874.

²⁵⁶ Information given in Ann Lloyd’s witness statement, P.C.A. M/Q/SR Midsummer 1869, and the deposition of P.C. John Gregory P.C.A., M/Q/SR, Easter 1869.

fun at working-class women who tried to follow fashion with cartoons picturing servants in ridiculous and indecent situations by insisting on wearing crinolines while cleaning.²⁵⁷ In Hughes's case it might also have been a way of 'getting even' as her cross examination of Mrs Pilot during the trial revealed that Pilot had made her a present of a wedding dress but had deducted the cost of it from Hughes's wages. Although the details of many of the offences are not known, there is at least some indication that the women were stealing for their own use, with little evidence that they stole for financial gain. It would have been much easier for Braidsdell simply to sell the cloth than go to the trouble of making the tunic, particularly considering the increased risk of being discovered. The fact that she did make it up into wearing apparel suggests that, for the time being at least, she intended to use it herself. It has been argued that people 'were moved by a desire for novel and popular fashions',²⁵⁸ and the 1870s was a decade when Newtown entrepreneur Sir Pryce Pryce-Jones was becoming increasingly famous for his tweeds. He showed his products at exhibitions and won medals for his goods. He also supplied shawls to Florence Nightingale, Queen Victoria and her daughters.²⁵⁹ Figures 7.10 to 7.12 show newspaper advertisements detailing the sorts of goods available in Newtown at that time, and some contemporaries considered that promotions of this type encouraged shoplifting. Also at the time of Braidsdell's case, fashion magazines were becoming popular, having been available from the late 1860s. *The Month's Fashions* was first published in London 1868 and paper patterns for gowns also became very popular at this time, although they had been available earlier.²⁶⁰ Fashion was associated firmly with elite modes of consumption emanating from London, and different meanings might be associated with particular items or certain colours, making clothing a medium which could be used for complex sartorial elaboration within social classes.²⁶¹ Fashion was

²⁵⁷ E. Wilson and L. Taylor, *Through The Looking Glass: a History of Dress from 1860 to the Present Day* (London, 1989), pp. 21-2.

²⁵⁸ B. Lemire, 'The theft of clothes and popular consumerism in early modern England', *Journal of Social History*, 24 (1990), p. 256.

²⁵⁹ Exhibition in Newtown Flannel Museum, summer 2011; C. Rose and V. Richmond, *Clothing, Society and Culture in Nineteenth-Century Britain* (London, 2010), Vol. 1, p.129.

²⁶⁰ Rose and Richmond, *Clothing*, pp. 141-2.

²⁶¹ A. Toplis, 'A stolen garment or a reasonable purchase? The male consumer and the illicit second-hand clothing market in the first half of the nineteenth century', in J. Stobart and I. Van Damme (eds), *Modernity and the Second-Hand Trade: European Consumption Cultures and Practices, 1700-1900* (Basingstoke, 2011), pp. 59-60.

also part of the ‘social ritual’ which served to maintain class boundaries.²⁶² The cloth stolen from Mrs Pilot was described as ‘Parramatta’, which was originally made in Australia but had started to be made in Britain and had received exceptional reviews.²⁶³ Perhaps the temptation of the bolts of cloth on Mrs Pilot’s market stall was too much to resist.²⁶⁴

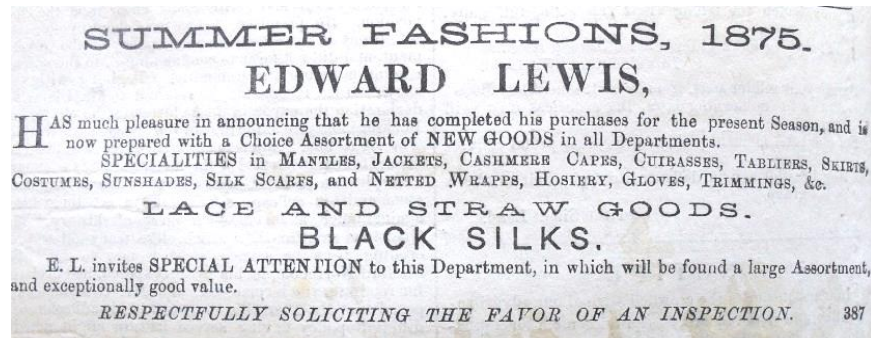


Figure 7.10: *Newtown and Welshpool Express*, 11 May 1875²⁶⁵

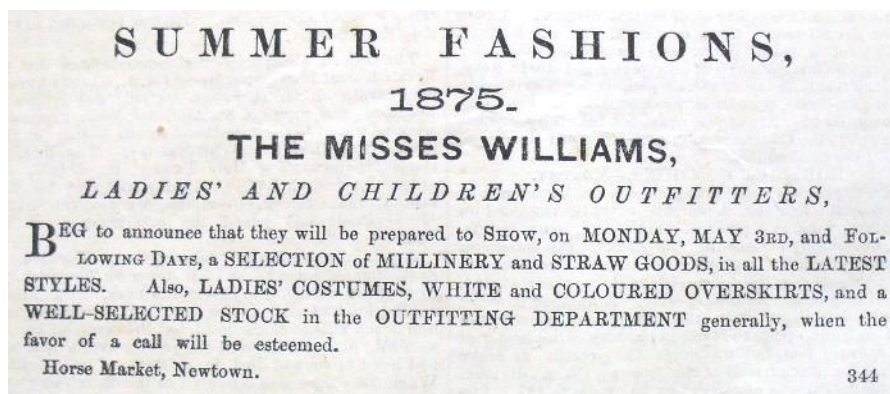


Figure 7.11: *Newtown and Welshpool Express*, 8 June 1875

²⁶² Wilson, *Through the Looking Glass*, p. 26.

²⁶³ ‘Parramatta’, <http://www.austehc.unimelb.edu.au/tia/273.html> (viewed 23/3/12). Zedner writes about the Parramatta tweed factory in *Women, Crime and Custody*, p. 175. The factory, ironically, was operated by female convicts. See also Beddoe, *Welsh Criminal Women*, pp. 135-142.

²⁶⁴ See T. C. Whitlock, *Crime, Gender and Consumer Culture in Nineteenth Century England* (Farnham, 2005) for a discussion on nineteenth-century consumerism encouraging thefts from retail outlets especially market stalls and bazaars.

²⁶⁵ Note Edward Lewis’s prominent words ‘Black Silks’. This was part of the later nineteenth century’s ‘cult of mourning’ that reached ‘epidemic proportions’ after the death of Prince Albert in 1861. Wilson, *Through the Looking Glass*, p. 26.

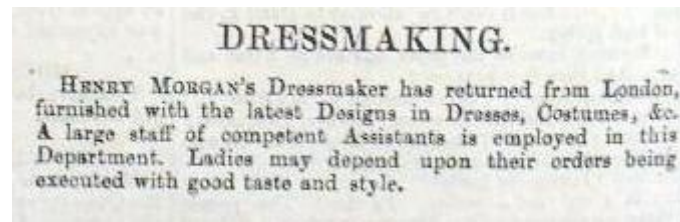


Figure 7.12: *Montgomeryshire Express*, 27 May 1879

Newspaper reports may have provided a further pressure to emulate, for example, from the description of High Sheriff Capt Mytton's wedding in London.²⁶⁶

The bridal costume was of white satin, richly trimmed with lace, orange blossom and stephanotis, gold locket, earrings and bracelets. [The bridesmaids' dresses] were of blue and white. The skirts, made long, were of blue silk and had two wide flounces, scalloped at the edge, under which were white muslin plaits. The bodies and tunics were of blue Japanese silk, richly trimmed with Valenciennes lace.

The ordinary, working woman did not have access to this sort of finery, and Figure 7.13 illustrates the typical costume available to them. Figure 7.14 features an advertisement placed by the Pilots, showing that they supplied more accessible clothing, 'cast-off' from the higher classes, from their shop in the centre of town. Study of the photographs in G. Jenkins' book on rural Welsh communities shows that while the upper orders had discernable fashions which changed constantly, the costume of the lower orders was relatively static,²⁶⁷ and any book on the history of fashion shows that the styles of expensive clothing changed on a year-to-year basis.²⁶⁸ Thus clothing was a means of communicating status and class, and the upper classes could communicate through their wearing apparel more effectively than the working classes.

²⁶⁶ *N.W.E.*, 11/3/1873.

²⁶⁷ G. Jenkins, *Life in the Countryside: the Photographer in Rural Wales, 1850-2010* (Talybont, 2010). See also K. Navickas, 'Political clothing and adornment in England, 1740-1840', *Journal of British Studies*, 69 (2010), pp. 540-65.

²⁶⁸ See for example J. Laver, *Costume through the Ages* (London, 1963).



Figure 7.13: Traditional Welsh dress for working women (picture in a collection at the National Library of Wales).²⁶⁹

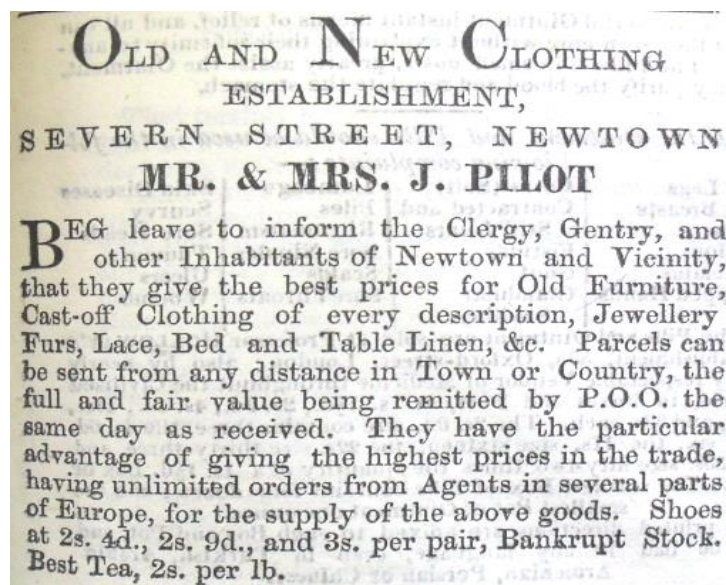


Figure 7.14: *Newtown and Welshpool Express*, 27 July 1873

An advertisement from *Peterson's Magazine* describes the sort of appearance that Mary Ann Braidsdell may have been trying to achieve with the stolen Parramatta, as the description specifies the tunic: 'Costumes of this kind are, this season, trimmed with several rows of machine stitching, and are made as plainly as possible. The skirt

²⁶⁹ Picture attributed to John Cambrian Rowland. Reproduced with permission of the National Library of Wales.

is narrow and round. The tunic is buttoned down the front and the jacket is close-fitting and double-breasted. This is really the prettiest costume of the season'²⁷⁰



Figure 7.15: Artist's impression of an outfit featuring a tunic, *Peterson's Magazine*, February 1875

With regard to men's thefts of clothing, there is evidence of selling on. When market trader Thomas Swain helped himself to various items of clothing from Mrs Pilot's stall, he immediately hung them up on his own stall for resale.²⁷¹ Shoemaker Owen Davies stole 20 pairs of boots from his employer and took them straight to a Newtown pawnbroker who gave Davies the choice of pawning them or selling them. Davies chose to sell and then absconded to Shropshire.²⁷² When Thomas Burke stole a length of cloth and various pieces of apparel in Newtown, unlike Mary Ann Braidsdell, he made off to Shropshire where he sold some of the items to a lodging-house keeper.²⁷³ Most of the clothing thefts in this study were committed by tramps who were found wearing the articles. If tramp thefts are discounted, then a picture emerges of women stealing clothes for their own use, and men stealing for financial

²⁷⁰ *Peterson's Magazine*, February 1875 viewed at http://dressmakingresearch.com/petersons_overskirt_1875.htm (15 June 2012).

²⁷¹ *N.W.E.*, 4/4/1876.

²⁷² *N.W.E.*, 4/7/1871.

²⁷³ *M.E.*, 12/3/1878.

gain. In Phillips's analysis of Black Country clothing thefts, he makes the deduction that 'those who stole regularly while also being employed ... could hardly be called professional thieves since stealing clothing was not particularly lucrative. They were neither honest poor nor criminal class but an important third category – people in employment who supplemented their income with theft'.²⁷⁴ But this statement is the sort of generalisation criticized by Walker for omitting women. It is a generalisation that does not identify an important fourth category – women who stole clothing for their own use.²⁷⁵

Street thefts committed by women were always those of money or small items of value such as a watch, whereas men's street offences were often thefts of livestock on market days, but rarely money or valuables. This does not seem readily explainable by differently gendered material aspirations and so is most likely to be related to contrasting opportunities.²⁷⁶ A man would not be out of place browsing around animal pens or taking away a sheep in a cart, and a woman on a street, looking into shop windows or mingling with buyers inside, would not necessarily be suspicious.²⁷⁷ These locations would offer her the most ready opportunities. There was a type of location, however, where men did carry out the sort of theft normally associated with women, and this was an arena where their mingling would not look out of the ordinary – in public houses. The circumstances of most of the public house thefts were similar for both sexes, often opportunistic, picking the pocket of a drunk or some other person sitting nearby, or walking off with an item left carelessly.²⁷⁸ Prostitutes created opportunities for such offences, as seen in the case of Sarah Lewis who picked

²⁷⁴ Phillips, *Crime and Authority*, p. 198.

²⁷⁵ For a comment on this issue see Jones, *Crime*, p. 127. See also B.S. Godfrey and J.P. Locker, 'The nineteenth-century decline of custom, and its impact on theories of workplace theft and white collar crime', *Northern History*, 38 (2001), pp. 261-73.

²⁷⁶ Walker also found that livestock featured much more heavily as a proportion of men's thefts than women's. Walker, *Crime*, p. 162. Godfrey identifies reduced opportunity as a reason for women's smaller range of crimes. Godfrey, *Criminal Lives*, p. 36.

²⁷⁷ Godfrey discusses gendered opportunities in *Criminal Lives*, pp. 35-8.

²⁷⁸ See for example, Alice Roberts' theft of a bag, *N.W.E.*, 22/10/1878; Richard Trow's and Edward Phillips's pick-pocketing activities, *N.W.E.*, 9/1/1872 and 6/7/1875 respectively.

a client's pocket,²⁷⁹ and men sometimes engineered thefts such as that committed by Thomas Fitzgerald when he tricked a bartender into giving him money.²⁸⁰

Opportunism thus facilitated thieving, and opportunities for stealing particular things have been said to be culturally disposed, often arising from gendered activities.²⁸¹ Feeley argued that as the nineteenth century progressed, women were excluded from many forms of developing industry or work, and segregated into low-wage occupations, thereby reducing their opportunities for theft. This can be seen in Montgomeryshire. There were nine cases of women's theft from their place of employment, and in all but one they were employed either as domestic servants or charwomen in private homes or inns, and in one case, a toll house.²⁸² They stole a limited range of items including money, jewellery, beer and clothes. This contrasts with male offenders whose workplaces were farms, an office, a warehouse, railway station, the market place, mines, a canal wharf, coal depot, shop, hotel and boat yard.²⁸³ The items stolen by men included materials such as lead piping, coal and wool, horse tack, money, farm produce and livestock. Men's wider work opportunities gave them access and opportunity for temptation and dishonest activities. Women's purloining, too, was within their everyday boundaries, and the role of family shopper could provide a defence. At the Midsummer Sessions of 1869, two farm women charged with stealing a bonnet from a shop successfully argued that they had picked it up by mistake while browsing, and in 1870 Jane Jones's solicitor successfully argued that standing near the prosecutrix and then walking away was no proof that she had

²⁷⁹ *M.E.*, 6/7/1869.

²⁸⁰ *N.W.E.*, 11/1/1870.

²⁸¹ Walker, *Crime*, p. 179.

²⁸² *N.W.E.*: Susannah Francis, 24/10/1871; Jane Jones, 14/3/1871; Frances Evans, 22/10/1872; Fanny Robinson, Mary Edwards, 8/7/1873; Jane Jones, 11/1/1876; Elizabeth Williams, 9/7/1878; Elizabeth Lewis, 12/3/1878.

²⁸³ *N.W.E.*: Thomas Vaughan, 16/3/1869; William Jones, 12/1/1869; Edward Jones, 26/10/1869; Thomas Brown, 6/7/1869; Moses Williams, 6/7/1869; George Middleton, 10/1/1870; Edward Mason, 14/3/1871; Thomas Davies, 9/7/1872; Thomas Turner, 11/3/1873; Edward Hughes, 27/10/1874; Edward Jones, 12/1/1875; David Thomas, 19/10/1875; Tudor Williams, 12/1/1875; Thomas Jones, 11/1/1876; John Jones, 11/1/1876; Edward Jones, 11/1/1876; Arthur Williams, 4/4/1876. For back ground information see Godfrey, B.S., 'Law, factory discipline and 'theft': the impact of the factory on workplace appropriation in mid to late nineteenth-century Yorkshire', *British Journal of Criminology*, 39 (1999), pp. 56-71.

picked the woman's pocket.²⁸⁴ No woman among those charged here ever broke into a shop or stole large items involving a high degree of risk. This sort of theft from a shop was the preserve of the male. The women's shop thefts considered here contrast with William and Samuel Edwards who burgled a shop and stole a side of pork that was in the process of being salted.²⁸⁵ John McNamara pretended to be an agent for a Liverpool sewing machine company and swindled a shopkeeper out of six shillings – this involved taking away a machine for 'repair'.²⁸⁶ Although male thefts were often on a larger scale, it could be argued that they too were acting within normal male boundaries: travelling about, carrying large objects, mending things.²⁸⁷

Another generalisation sometimes made is that the getaway for thieves was easy, with particular emphasis on the ease of disappearing from a lodging house, shop or pub.²⁸⁸ This generalisation, however, seems relevant only to men: in all but one of the cases involving solely women, the culprit was found in the location of the theft, or within easy reach of it. When charwoman Ann Goodall was suspected of stealing a jacket in Berriew on 23 August 1871, the local police officer knew where she lived and obtained a warrant to search her home although this was not done until 12 days later. The officer also searched Goodall's mother's house and found the item.²⁸⁹ Elizabeth Davies noticed an item of her underwear missing at Christmas 1872 but did not suspect her servant of taking it until three months later. Davies then fetched the local P.C. who searched the servant's box and found the garment.²⁹⁰ This kind of evidence suggests that women were bound more strongly to domestic situations and less likely to roam unaccompanied away from habitation.²⁹¹ Physiology and clothing

²⁸⁴ *N.W.E.*, 6/7/1869 & 25/10/1870.

²⁸⁵ *N.W.E.*, 15/3/1870.

²⁸⁶ *N.W.E.*, 7/1/1873

²⁸⁷ Brian Short also identifies the mobility of males in B. Short, 'Environmental politics, custom and personal testimony', pp. 484-5. Barry Godfrey also highlights men's mobility providing them with opportunities for theft in factories. B. Godfrey, 'Workplace appropriation and the gendering of factory "law"' in M.L. Arnot and C. Osborne (eds), *Gender and Crime in Modern Europe* (1999, London, 2003), p. 140.

²⁸⁸ Phillips, *Crime and Authority*, p. 197.

²⁸⁹ *N.W.E.*, 24/10/1871.

²⁹⁰ *N.W.E.*, 8/7/1873

²⁹¹ See Zedner, *Women, Crime and Custody*, p. 25 where she argues that women's mobility was restricted by confinement to home.

were also relevant: a man's getaway would not be restricted by pregnancy, menstruation or long skirts,²⁹² although it is fair to say that the last of these certainly enabled concealment of stolen articles.²⁹³ When a gang of tramps, including two females, were seen near a farm in the hills above Newtown, the farmer suspected them of stealing fowls which had gone missing. P.C. Hudson tracked them down in Shropshire where one of the men was rueful. He said to the officer: 'If it had not been for these women, you would not have had us – we would have been well away.'²⁹⁴ Men's absconding events are considered in the next section.

Male boundaries

In some 20% of crimes, the exact location of the offence was given in court reports. Analysis of these locations gives the results shown in Figure 7.16.

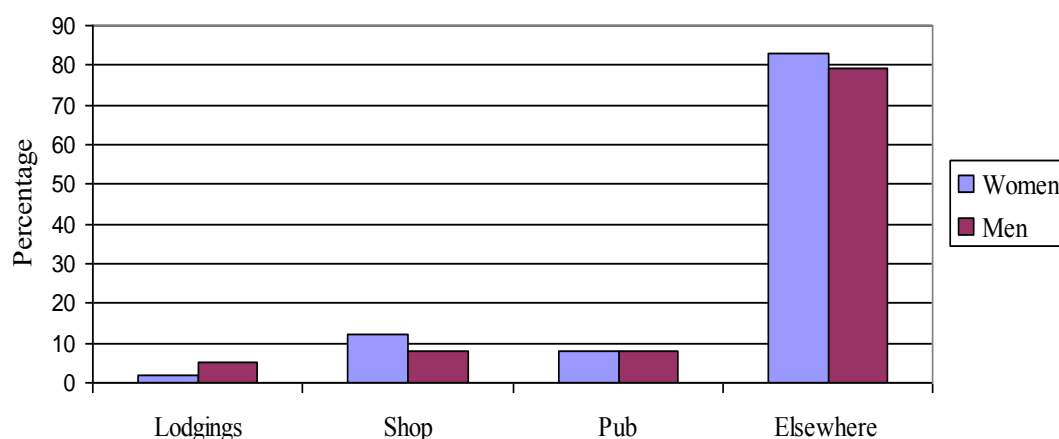


Figure 7.16: Percentages of crimes originating in different locations

²⁹² For discussions of handicaps imposed by menstruation see J.-M. Strange, 'The assault on ignorance: teaching menstrual etiquette in England, c. 1920s to 1960s', *Social History of Medicine*, 14 (2001), pp. 247-248. Advice given to women was that they should 'avoid sudden exposure to cold or wet and avoid mental agitation' during menstruation, see E. Showalter and E. Showalter, 'Victorian women and menstruation', in Vicinus, *Suffer and be Still*, p. 39.

²⁹³ See Jane Thomas's theft of six waistcoats, *N.W.E.*, 21/10/1873.

²⁹⁴ *N.W.E.*, 11/1/1870.

There is a higher incidence of shop crime for women although the proportions are not much different for men and women. A more noticeable difference occurs in analysis of crimes committed in isolated and populated areas (Figure 7.17).²⁹⁵

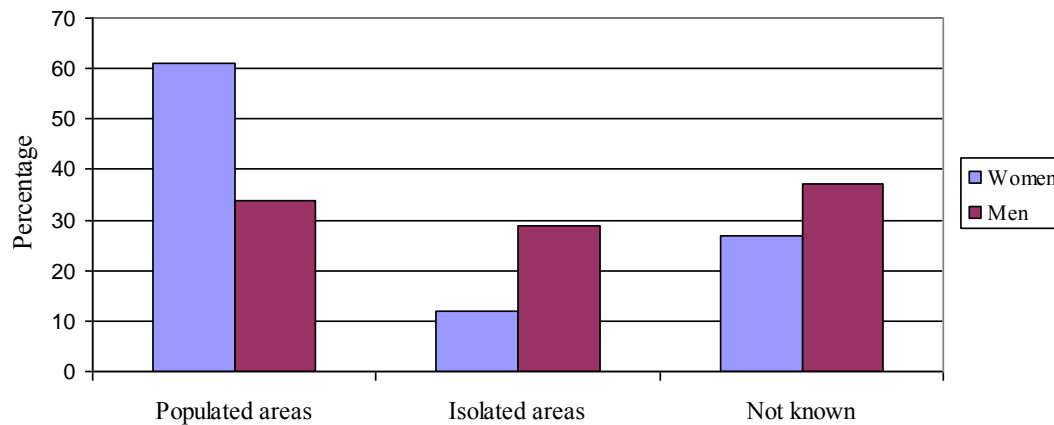


Figure 7.17: Locations of male and female offences

Although males offended nearly equally in both populated and isolated areas, females were much less likely to offend in areas where there were few people present. In four of the eight cases where women were charged with offences in isolated areas, they were in those locations with men, either gypsies or tramps crossing the countryside.²⁹⁶ In the other four cases of women offending in isolated areas, they stole from places where they were employed.²⁹⁷ In only 11% of men's cases was workplace theft involved. Usually the men were opportunistically at the scene of the crime. For example, Evan Breeze claimed to have been in a drunken stupor and mistakenly went into a farmyard where he killed a hen by accident.²⁹⁸ John Lewis stole leather from a lead mine in the hills near Llanidloes where he had called looking for work. Later the same day he stole wool from a field near the mine, then made his way to Newtown

²⁹⁵ For this analysis, a populated area was one where people were likely to congregate, such as towns and villages, while isolated areas are country lanes, fields away from habitation, farms with few or no near neighbours, etc.

²⁹⁶ Mary Ann Hearne (two charges): *N.W.E.*, 25/10/1870; Elizabeth Clarke and Louisa Wilson: *N.W.E.*, 11/1/1870.

²⁹⁷ Anne Francis: *N.W.E.*, 10/1/1871; Anne Goodall: *N.W.E.*, 24/10/1871; Frances Evans: *N.W.E.*, 22/10/1872; Mary Edwards: *N.W.E.*, 8/7/1873; Elizabeth Williams, *M.E.*, 9/7/78.

²⁹⁸ *N.W.E.*, 9/1/1872.

where he tried to sell it.²⁹⁹ In general, male movement around the country enabled and facilitated criminality. For example, boatman John Watkin agreed to transport a load of ketchup between two stops on the Montgomeryshire canal, and during the journey consumed some of the sauce himself.³⁰⁰ John Wilson, an American, claimed that the boots he stole from a cottage near Newtown were a pair he had brought with him from Cardiff.³⁰¹ In a case illustrating the enabling of crime by the advent of railways, John Bowker and Josiah Beech travelled home by train to Liverpool from Newtown, and opportunistically stole £59 from a farmer during the journey.³⁰²

The Bowker/Beech case illustrates how criminality prompted the movement of another group of males – the police. It has been shown in an earlier chapter how the police would sometimes travel great distances to apprehend suspects, but probably only when the victim was a ratepayer or one who was able to pay the officer for his time. Sergeant Hudson from Newtown located Bowker and Beech in custody in Liverpool and went there to interview them.³⁰³ Success for the police was measured in convictions, so they were motivated to make arrests. In an agricultural region such as Montgomeryshire, where farmers' rates helped run the force, the officers needed to be seen making an effort on behalf of farmers.³⁰⁴ Great trouble was taken to secure a conviction against the juvenile Mary Anne Nason, who had served time in a reformatory following criminal behaviour several years earlier. She was prosecuted for theft from a surgeon, and a sergeant from the Warwickshire force travelled to Welshpool to give evidence against her. P.C. Edwards of Llanbrynmair travelled nearly 50 miles to apprehend Thomas Vaughan who had stolen 15 shillings from his timber merchant employer.³⁰⁵

Attitudes towards crime

²⁹⁹ *M.E.*, 9/1/1877.

³⁰⁰ *N.W.E.*, 8/9/1874 and 27/10/1874.

³⁰¹ *N.W.E.*, 11/1/1870.

³⁰² *N.W.E.*, 9/1/1870 and 5/7/1876. See R. Ireland, 'An increasing mass of heathens' for explanatory comments.

³⁰³ They were being held at Dale Street in the city. Old maps show the police courts, bridewell and detective department situated there.

³⁰⁴ Shakesheff, *Rural Conflict*, pp. 69-72.

³⁰⁵ Nason's and Vaughan's cases both heard at the Easter 1869 Sessions, *N.W.E.*, 10/3/1869.

The Quarter Sessions Bench heard a wide variety of cases. The offences other than those deemed theft or stealing are shown in Figure 7.18. The numbers are small but show that the majority were committed by men. Burglary and assault were the two that featured most significantly, and the patterns observed in the theft analysis are seen again.

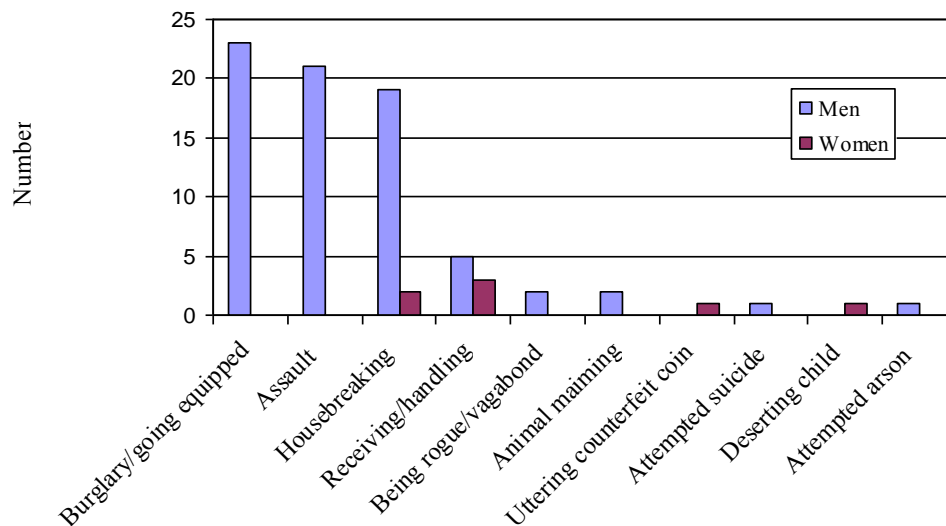


Figure 7.18: Offences other than theft heard at Quarter Sessions

Two house-breaking cases were committed by women. By definition, these took place during the day, and they both occurred in populated areas. Wearing apparel was stolen in each case. In one case it was underwear, and the woman was found wearing it, having been searched by the police officer's wife. In the other, the items included a silk scarf and an artificial flower. Significantly, neither case involved a violent or forceful entry into the premises.³⁰⁶ Phillips includes breaking and entering/burglary as a violent crime as it included an element of power being used,³⁰⁷ and on this basis, these two house-breaking cases by women would have been excluded from Phillips's list. Woodward argues that burglaries in Montgomeryshire were facilitated by its proximity to the border, meaning that goods could be disposed of easily, but he, like Phillips, appears to be confining his analysis to men, as the evidence for women shows that they retained the items.³⁰⁸ Men's mobility is again reflected in these

³⁰⁶ Elizabeth Gough, *M.E.*, 8/1/1878; Mary Ann Kinsey, *N.W.E.*, 25/10/1870.

³⁰⁷ Phillips, *Crime*, p. 237.

³⁰⁸ Woodward, 'Burglary', p. 67.

violent crimes. In 1874, four tramps broke windows and gained entry into a widow's house in the north of the county. They fled over the hills, first to Llanarmon and then on to Chirk. A police officer followed them and arrested the men in Wrexham.³⁰⁹ Two sailors removed six panes of glass from the windows of a cottage in the south of the county, intending to commit a felony. They were noticed, and – disturbed by shouting – jumped over fences and ran off up the hillside. They were stopped by field workers who held on to them until a policeman arrived.³¹⁰ Here is an example of a getaway that could hardly have been attempted by a woman in a long skirt. The section of modern Ordnance Survey map in Figure 7.19 shows the steepness of the hillside and the field boundaries, and the old map in Figure 7.20 shows that the boundaries were in place at the time of the break-in. There is a clear difference here between this location and the route that the gang of fowl stealers, including two women, took along the flat Kerry Ridgeway (Figure 7.21).³¹¹

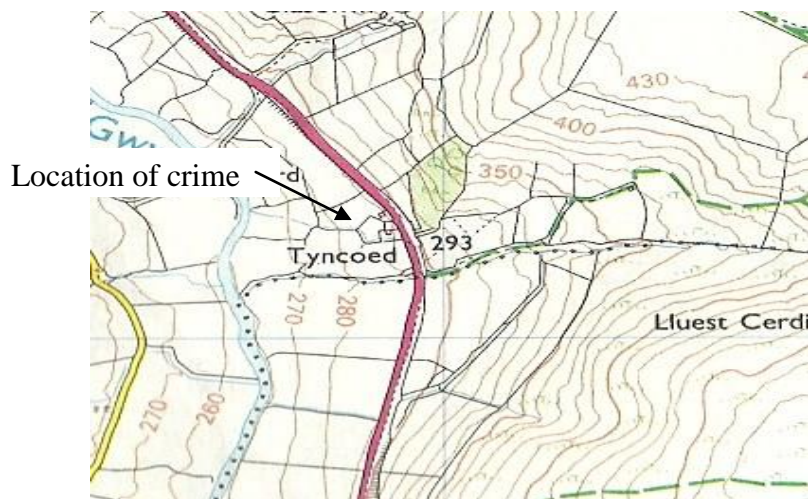


Figure 7.19: Location of break-in by two sailors.³¹²

³⁰⁹ *N.W.E.*, 10/3/1874.

³¹⁰ *N.W.E.*, 12/1/1869.

³¹¹ Even in trousers the two sailors were captured during their attempted getaway across the hillside. It would have been easier for them to make their way west, across the flood plain. Witness testimony, however, reveals that labourers were working in that area, and the sailors tried to avoid them. Note Nicholas Blomley's analysis of the environment in N. Blomley, 'Making private property: enclosure, common right and the work of hedges', *Rural History*, 18, 1 (2007), 1–21.

³¹² Ordnance Survey Explorer, map number 214, grid reference 919763.

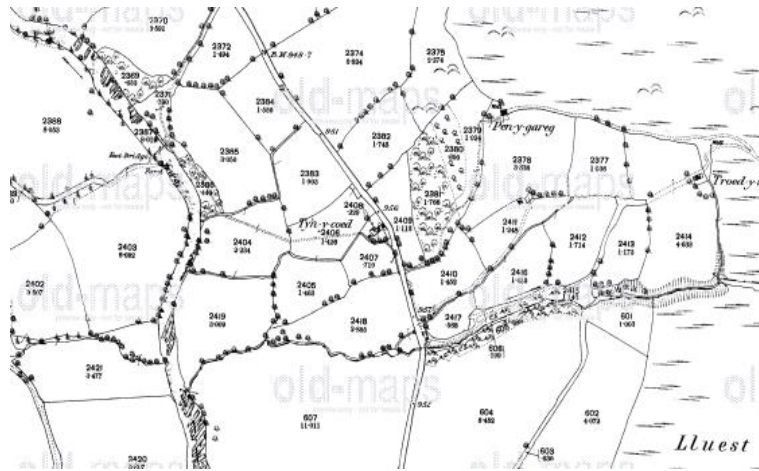


Figure 7.20: The same location in the 1880s showing field boundaries in existence.³¹³

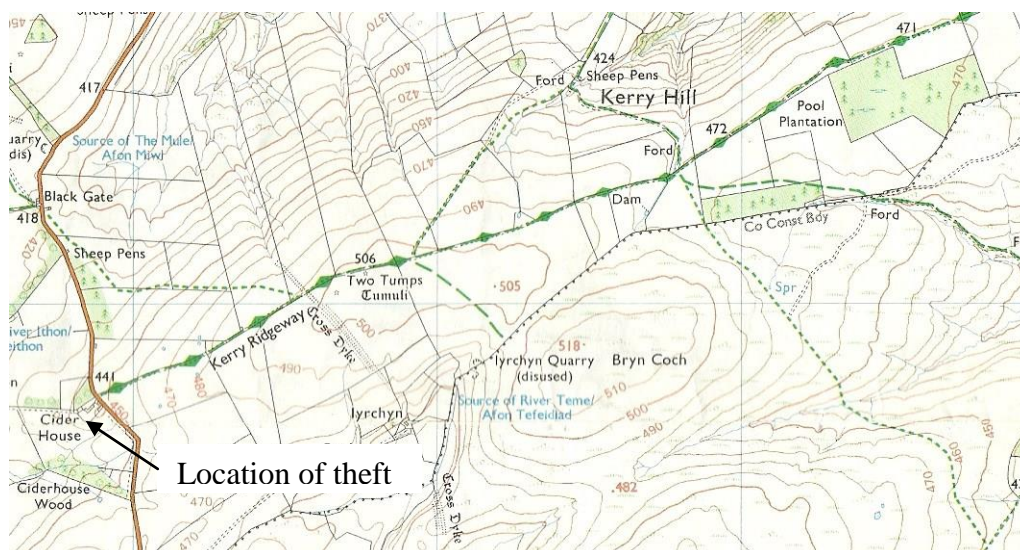


Figure 7.21: Escape route of fowl-stealing gang, along the flat ridgeway.³¹⁴

Attitudes to theft revealed in testimonies

Witnesses' comments in their depositions reveal attitudes and motivations. The words of the rightful owners of stolen property sometimes indicated an initial high level of trust in the people who later were found to have stolen their goods.³¹⁵

³¹³ Viewed at www.old-maps.co.uk (14/8/12).

³¹⁴ Ordnance Survey Explorer, map number 214, grid reference 109846.

³¹⁵ P.C.A. M/Q//SR, 1869-78.

Shoemaker Edward Jones described how he would leave his shop in the hands of his journeyman, Owen Davies, who later stole 20 pairs of boots from him: '[I] occasionally left him in charge of my business when I went from home and he had access to the whole of my property in the shop and warehouse'.³¹⁶ Shop foreman Hugh Edwards allowed Elizabeth Hughes to take away five shawls on approval. He said: 'The prisoner came to our shop and said, 'Mrs Pilot has sent me for a few woollen shawls to select some from'. I wrapped up for her five shawls ... and she took them away. I knew the prisoner was a servant with Mrs Pilot.'³¹⁷ Mary Ann Braisdell turned up at Mrs Pilot's market stall offering her services as a guard to watch over the stall. Mrs Pilot took her on but within a matter of weeks Braisdell had stolen fabric and a silk dress.³¹⁸ A remarkable degree of trust was shown by surgeon William Kortright Brock in the role he gave to former reformatory inmate Mary Ann Nason within his household.³¹⁹ 'I hired the prisoner as a nurse about five months ago and she remained in my employ up until last Sunday week. On [that day] she was left in charge of my house while I and my family were in church.' Brock's two infant children were left in Nason's care during this time, and upon the Brocks' return, they found Nason gone, having purloined clothes, jewellery and money. 'Our two children, the one aged about 16 months and the other five weeks, we heard crying upstairs. We went upstairs and found the children in separate bedrooms, crying.' Mr Brock pursued Nason with vigour, alerting not only the local policeman but Superintendant Strefford in Welshpool, and accompanied the local constable to Shrewsbury.

Related to the degree of trust shown by employers is the fact that some did not notice items had been stolen until alerted by others. Edward Jones, who lost 20 pairs of boots, said, 'I happened to be at the shop of Mr Cornelius Owens who keeps a grocer's and a pawnbroker's on Ladywell Street. While there I noticed hanging up several pairs of boots which I believed to be of the class of goods worked by me.' Networks of acquaintances often helped in locating items once their loss was noticed, although usually the informants were unidentified. An exception was in the case of

³¹⁶ P.C.A. M/Q/SR Midsummer 1871.

³¹⁷ P.C.A. M/Q/SR Midsummer 1873.

³¹⁸ P.C.A. M/Q/SR Easter 1874.

³¹⁹ P.C.A. M/Q/SR Easter 1869.

the shawl theft. Hugh Edwards said, 'From information I received from Mrs Pilot's son on Monday night, I went in search of the prisoner and found her up New Road. I found her going up the road with a young man on horseback'. Usually the owner was vaguer about the sources of information. For example Mrs Pilot said, 'I received information and went to the house where the prisoner was staying'. The phrase 'I received information', however, may be the clerk's shorthand way of recording a witness's actual phrase. Some of the complainants realised that having some definite evidence to produce in court could bolster a case, especially if an independent witness could confirm it. Edward Jones described how he and the Cornelius Owens set up a trap: 'He [Owens] put the boots I picked out of the stock under the counter and the prisoner came. Owens then said to the prisoner, 'Where did you get those boots from I bought from you?' Prisoner said, 'I had them returned from a friend, they were boots I had lost.' When Margaret Ellis suspected Jane Thomas of stealing waistcoats, she searched the woman in the presence of a witness: 'I sent for Jane Jenkins and she saw me take the waistcoats [from under Thomas's dress]'. Jenkins confirmed this in her statement: 'Miss Ellis beckoned to me to come in and I saw her take the waistcoats from the prisoner.'³²⁰

All of the cases that came to court included depositions from police officers who had been called in by complainants. Some victims appear to have been content to use the police to carry out the function which, years before, they would have had to do for themselves or with the help of parish constables, namely tracking down and apprehending the suspect. P.C. Breeze of Llanfair Caereinion described how Mr Ellis had come to him to tell him of the thefts of waistcoats: 'On the 14 August Mr Ellis told me of the robbery and that he would see me the following morning and on the next morning he showed me the waistcoats and afterwards on the 22 [August] he handed them to me. I apprehended the prisoner on the charge.' Hugh Edwards obtained the warrant for the arrest of Elizabeth Hughes for the theft of the shawl but he expected Constable Crowden to serve it on her, which required a trip to Llandiloës. This might have involved a payment to the officer. P.C. Sibbald had to travel to Ellesmere in Shropshire to apprehend the man who had stolen the 20 pairs of boots from his employer.

³²⁰ P.C.A. M/Q/SR Michaelmas 1873.

Complainants did not necessarily bring in police officers immediately. Sometimes individuals could produce a confession by going to see the suspects and confronting them. It certainly worked in the case of the boot thief. After initially claiming that the boots were a consignment he had lost earlier and had been returned to him, Owen Davies changed his mind and said (in the testimony of the complainant): ‘The boots are yours, Jones, and for God’s sake forgive me, I am an old man’. Such intervention by the complainants themselves may explain why the police officers’ statements nearly always contain little detail apart from finding the suspect, receiving the stolen items and taking the suspect to the lock-up. Complainants may well have used threats, perhaps of bringing in the police, a court case, withholding a character reference or even violence, in order to bring about the confession. Often the depositions show that the suspects initially denied the accusations but inexplicably changed their minds. Edward Jones said the suspect’s mind change came after ‘some conversation between me and the prisoner’. Mrs Pilot went to see May Ann Braisdell who initially said that she had bought the Parramatta from someone in the Crown Inn, and that the silk dress had been given to her by her sister, but very quickly confessed. According to Mrs Pilot, ‘She said, “I am very sorry and would not do such a thing again”’.

Occasionally, however, the police did conduct interviews which are recorded in their depositions. An example is when P.C. Crowden found Elizabeth Hughes at her aunt’s house in Llanidloes. Hugh Edwards had already described her actions in New Road: ‘I told her I wanted her to go along with me. She had the shawl which she had from me in the morning on at the time. She refused to return with me but took the shawl off and threw it over my shoulder and said “You want nothing further with me so long as you have the shawl”’. Now, at the aunt’s house, Hughes asked P.C. Crowden, ‘What can they do with me now that I have given the shawl back?’ Mary Ann Nason also made her confession to a policeman after being tracked down to a public house in Coventry. The officer searched her himself and appears to have obtained the admission of guilt easily. Her words could indicate that the constable had used a threat against some other, unknown person: ‘[I] charged her with stealing them and she said, “No one else has taken them but myself and no one else will have to suffer for it”’. Prostitute Mary Morris confessed to P.C. Richards in her lodgings after he had searched her himself. He also deposed that she produced the gold ring from a

hole where she had hidden it. Without the missing item, the case was likely to fail,³²¹ so if he searched her and did not find the ring upon her person, why did she then produce it from the hiding place? She may have been telling the truth when she said that she never intended to keep the ring,³²² or it could indicate that Richards used verbal or physical force to produce a result. Notably, in both these cases where the woman suspect confessed to the officer, he had searched her himself, behind closed doors.

Farmers, noticeably, took a hands-on approach to investigating their losses. Victims of theft living in towns sometimes spoke to suspects and then fetched a police officer. Farmers, however, perhaps because they were on farmland, away from other people's eyes and away from the nearest police station, sometimes adopted physical methods before going to the police. When farmer John Hotchkiss noticed that hens' eggs were regularly disappearing, he decided to root out the culprit himself.³²³ He described how he trapped the man, who was one of his employees:

I myself went into the granary and concealed myself. I had not been there for a few minutes when prisoner entered the bin and shut the door after him. I then went back to the stable for a light and told the cowman Charles Bumford to follow me. I went into the bin. On my opening the door the prisoner was in the act of going into the cow house from the bin. When he got into the cow house he threw himself down into the straw and in a minute or so afterwards addressed the cowman, 'Didst thee see my jacket anywhere?' I called the prisoner to me. When he came I asked him, 'What have you got in your pocket?' He said, 'Nothing.' I put my hand in his coat pocket and felt, and I believe broke, an egg in it. He then drew away and was about running back into the cow house when I caught him by the leg and held him until another servant named Bumford came. I then had him out on the fold and commenced searching him again.

³²¹ Clayton, 'Charlotte Walker', pp. 8-9.

³²² P.C.A. M/Q/SR Hilary 1869. See also Chapter 8 of the present work.

³²³ P.C.A. M/Q/SR Easter 1869.

It is possible that the two men fought, although the farmer said nothing about a struggle in his deposition. Farmer Richard Jones spotted a man on his land and grabbed him.³²⁴ Jones was more forthcoming than Hotchkiss about his actions:

When I caught hold of the man he struggled to get loose but I told him I would not let him go but take him straight to the police man. I brought him along the road in the direction of Llanfair for about 150 yards. He did not speak a word but I felt something hit me across my arm twice and then it dropped to the ground. I picked it up the second time it dropped and found it was a hammer and I put it in my pocket and it is the one now produced. He then spoke and asked my pardon and to lose him. This was after a good struggle.

Whoever the victim was in the cases studied, he or she always brought in the police sooner or later. However, as seen in earlier chapters, it was often the complainant, not the police, who prosecuted, particularly when the victim was a man. People seemed to understand that the deposition of an officer, even when it was only to describe a few main details of the apprehension and charging, gave their suits credibility and validity.

Not guilty pleas

All of the defendants in these theft cases were said to have confessed. In any case, the lost items were found on them, in their places of abode or were sworn by witnesses to have been in the hands of the accused at some point. However, all the suspects pleaded not guilty in court. Mary Morris did not appear to have much hope of being found innocent, as the complainant positively identified her as the thief, and the item was found secreted in her lodgings.³²⁵ But plead not guilty she did, and what is more, she was acquitted. It might have been common knowledge that prostitutes were often acquitted of thefts from their clients, or maybe she considered that if she was going to go down, she would take the man with her, in a sense, by humiliating him. She did this by providing details that produced much laughter in court.³²⁶ Elizabeth Hughes' words to P.C. Crowden, 'What can they do to me as I have

³²⁴ P.C.A. M/Q/SR Midsummer 1878.

³²⁵ P.C.A. M/Q/SR Hilary 1869.

³²⁶ *N.W.E.*, 12/1/1869.

returned it?’ show that she had an idea that returning the item would relieve her of the charge of theft. She might have wanted to pursue this in court. She also wanted it to be known that her employer had been underhand in giving her a wedding dress but taking the cost out of her wages. By pleading not guilty to the theft of 20 pairs of boots, and thereby having a trial, Owen Davies was able to tell the court about how his stock had earlier been stolen and that he had suffered financially for it. It seems inexplicable that Mary Ann Nason would deny the charge of theft of her mistress’s clothes. She had absconded to her home county of Warwickshire with them, and they had been found on her person. Perhaps she was hoping against hope that she could avoid being sent back to a reformatory.

Attitudes towards assaults

When Elizabeth Hughes’s house was broken into and a knife taken, she was able to identify the recovered item because the handle had some nicks on it.³²⁷ ‘The knife now produced by the officer is the one,’ she said. ‘There are three marks on the handle, made by my boy, for which I beat him’. Next, young David Hughes took the stand to describe the man he saw near the house, and to identify the knife. The newspaper reported that ‘He said in an undertone to the Bench, “My mother beat me for making the nicks in it”’.³²⁸ The ordering of corporal punishment of children has already been seen occurring regularly in Montgomeryshire. These beatings, when sanctioned by authority figures, were generally acceptable.³²⁹ It has also been seen how domestic assaults were judged at Petty Sessions and often considered to be worthy of a bind-over order. Violence between women was regarded as dispute, and dealt with at Petty Sessions. Some violence, however, could be treated more seriously and sent to the higher courts. Twenty such offences in the present study were tried at

³²⁷ M/Q/SR Michaelmas 1869.

³²⁸ *N.W.E.*, 29/10/1869.

³²⁹ For discussions on contemporary attitudes to the acceptability of corporal punishment see J. Middleton, ‘Thomas Hopley and mid-Victorian attitudes to corporal punishment’, *History of Education*, 24 (2005), pp. 599-615. Randall McGowan recognizes that attitudes towards violence were selective, depended on who defined it and whether social control was an element. R. McGowan, ‘Cruel inflictions and the claims of humanity in early nineteenth-century England’, in K. D. Watson (ed.), *Assaulting the Past: Violence and Civilisation in Historical Context* (Newcastle, 2007), pp. 38-57.

Quarter Sessions.³³⁰ They were all committed by men, with the majority being committed against other men, although all those classified as indecent assaults were against females, including three children.³³¹

In the depositions of victims of theft, identification of the lost items was a key detail included, as well as identification of the accused person and his or her opportunity for taking the goods. However, the length of the testimonies was usually less than one page. Small detail did not seem to be required. It is almost as if guilt was assumed, and might have been related to the fact that in most cases heard at Quarter Sessions, the accused person was of a lower class than the complainant. Of the 146 people accused of theft, 64% were convicted. There was a notable difference when it came to interpersonal offences, with attention being paid to the minutiae of the assault. Many of the depositions were two pages or more in length.³³² For example, in Evan James's two and a half page testimony, part of a nine page bundle, he described the moment in a fight between himself and Thomas Evans that turned a brawl into a more serious crime in the Queen's Head public house in Newtown: 'I

³³⁰ Greg Smith points out: 'Assault charges could arise from an extremely wide range of events, and for that reason it is difficult to draw specific conclusions about the nature of violence in society simply from patterns of assault prosecutions. Counting assault indictments across time as an index of levels of interpersonal violence in society might, then, seem highly problematic given the dark figure of unrecorded crime.' G. T. Smith, 'Violent crime and the public weal in England, 1700-1900' in R. McMahon (ed.), *Crime, Law and Popular Culture in Europe, 1500-1900* (Cullompton, 2008), p. 195.

³³¹ The indecent assaults were: *N.W.E.*, Thomas Redge, 7/7/1874; John Stephens, 23/2/1869 & 16/3/1869; Edwin James, 5/7/1870; William Lewis, 6/7/1869; George Powell, 10/1/1871 and John Horton, 4/7/1871. In Emsley's *The English and Violence since 1750*, the crimes under consideration are those committed by males. Females feature only in discussions of victims. This suggests that the finding here – that males were the perpetrators of crimes that reached the higher courts – is the same as Emsley's. Note Rafter and Heidensohn's comment 'Criminology remains one of the most thoroughly masculinised of all social science fields; certainly one of the last academic bastions in which scholars regularly restrict their studies to the activities and habits of men without feeling compelled to account for this'. Quoted in D.M. Britton, 'Feminism in Criminology' in M. Chesney-Lind and I. Pasko (eds), *Girls, Women and Crime* (Los Angeles, 2004), p. 61. See Chapters 1 and 2, *Girls, Women and Crime* for theories of why females offend less than males.

³³² Sharon Howard identifies the length of depositions relating to homicides as being a reflection of how seriously violent deaths were taken. S. Howard, 'Crime, communities and authority', p. 61. Peter King argues that the length of an assault deposition probably reflects the fact of interpersonal difficulty when establishing guilt as at least two persons were involved giving varying accounts which were difficult for courts to judge (personal correspondence, 9/5/2012). Shani D'Cruze explains that assault cases relied on the effectiveness of narratives. D'Cruze, *Crimes of Outrage*, p. 48.

was wounded in the head. Blood was flowing freely down my face'.³³³ He and his brother-in-law went to wash the wound, and he went on, 'I was bleeding very much at that time. Mr Hall's assistant was sent for and he came and dressed my head. I felt very weak next day.' The brother-in-law's testimony provided more detail: 'They were going to commence another round when I observed by the light of a lamp a knife shining in the prisoner's uplifted hand. I shouted to the prosecutor, "Mind, Evan, he will kill you, he has got a knife". Prosecutor however knocked him down and fell upon prisoner and shouted out, "Here's the knife, he has got it in his hand."'

There were many instances when a police officer was called to a fight in a pub, resulting in charges of drunkenness or disorder being preferred against the protagonists at Petty Sessions. In the Queen's Head case, however, prosecuted at Quarter Sessions, the landlady did not call the police to break up the fight, leaving the men to sort it out themselves outside the building. It was only later that Sergeant Ross was called and told about the knife incident. The officer deposed: 'I went and apprehended prisoner on a charge of stabbing Evan James'. With the testimonies of the victim, his brother-in-law and the doctor, along with the defendant's admission that he had a knife in his pocket at the time, he received a six month gaol sentence for his guilty plea to a charge of common assault. He would not admit a charge of inflicting grievous bodily harm, but his admission of the lesser charge was accepted. The prosecutor magnanimously asked for a lenient sentence to be given.

At the same Sessions at which the Queen's Head case was heard, Edward George was accused of inflicting grievous bodily harm on Thomas Parry. The general details of the George case were very similar to the previous instance, except the weapon was a poker. A surgeon confirmed two severe wounds on Parry's head and a police officer described finding the metal bar. In this case, however, the defendant was acquitted. The difference here was that a defence witness, Parry's landlady, who initially did not come forward and did not make a statement to the committing magistrates, stated that

³³³ Easter 1869. Smith argues that the individual thresholds regarding perceptions of violence mean that it is difficult to assign figures to the actual levels of violent crime. Smith, 'Violent crime', p. 194.

she overheard the prosecution witnesses agreeing to embellish their recollections of the events.³³⁴ She said in court:

‘I heard Parry say to Mary Barrett, “Poll, you must not say that I took the poker out, you must say that I came out first without my boots and that I turned back to put them on. You must keep your counsel or I will be done.” He afterwards said that he would pay her well.’

Several prosecution witnesses testified to seeing the accused man strike the victim, and the surgeon’s testimony confirmed deep lacerations that Parry was unlikely to have inflicted himself or let someone inflict upon him. Yet, in the eyes of the jury, the embellishing of his and others’ testimonies seems to have overridden the commission of the assault by George. This might be considered a perverse jury decision.³³⁵ Alternatively, this might be an example of a jury taking all the circumstances of a case into account, arriving at – in their minds – a fair resolution which took into account embellished or fabricated prosecution evidence. Magistrates at Petty Sessions have been shown to take circumstances into account, and to be receptive to appeals by defendants, thus there would seem to be no reason why juries could not be so-minded.

To make a specific comparison, six assault cases heard at Petty Sessions during the same year as the Queen’s Head case were examined, to investigate the decision-making of the justices in the lower court. The main points are summarised in Table 7.3. The first of these appears to be a perverse decision by biased magistrates – including high-ranking militia officers – to acquit the militia man defendant, despite unequivocal prosecution evidence. In case two, the interests of justice seem to have been taken into consideration, bearing in mind that the victim did not want to prosecute his cousin, the alleged aggressor. In case three, the two defence witnesses were not independent, both having personal connections with one of the defendants. It seems that neither was believed, and the old man’s word was given more credence than that of two youths. The farmer in case four admitted an assault, i.e. pushing the victim, and yet a claim that the woman had stolen from him seems to have been taken as provocation, although the claim was not verified in any way. Furthermore, the

³³⁴ Margaret Mostyn’s evidence was reported in *N.W.E.*, 16/3/1869.

³³⁵ Perverse jury decisions are considered further in the forthcoming Assizes chapter.

farmer's ready admission of pushing the woman makes her claim of four strikes seem an embellishment. It appears, then, that the magistrates acquitted him because the four strikes were unproven even though he admitted an assault. The defence witness who appeared in case five was a neighbour of the accused and described the accused man defending himself from a physical threat by the complainant. However, this time the non-independent witness was found credible, unlike the witnesses in case three. Finally, in case six – just as in case one – a police officer described an assault on himself. This time the alleged assailant was a drunken labourer, and the magistrates declared the offence a grave one, deeming that the police must be protected. The man was convicted and fined. Details of dialogue and other interaction in the court are unavailable, but the limited information accessible appears to show again that magistrates considered all the circumstances surrounding a case, as well as their own sensibilities and the credibility of witnesses when arriving at a judgement. The first of the cases shows a perversity often only credited to juries.

Date reported	Allegation	Prosecution witnesses	Defence witnesses	Outcome
1/6/1869	Physical and verbal attack on police superintendent by militia man.	Complainant. Gave clear evidence of assault and identification of assailants.	No	Acquittal
6/4/1869	Low-level physical contact involved in disagreement over financial matter. Two men involved were cousins.	Complainant. Reluctant to press charges against his cousin.	No	Case dismissed when pair agreed to sort out the matter in the civil court.
5/10/1869	Old man attacked by two youths as he walked home.	Complainant. Gave clear evidence assault and identification of assailants.	Two women gave one defendant an alibi. One woman was defendant's sister-in-law.	Both youths convicted.
5/10/1869	Old woman verbally and physically abused by farmer on whose land she was gleaning.	Complainant. Gave clear evidence of four blows and foul language.	One of farmer's lessees confirmed his statement that he pushed complainant but did not strike her. Farmer claimed woman had earlier been stealing from him.	Acquittal
16/11/1869	Farmer struck by neighbour in public house. Drink involved.	Complainant	Neighbour testified that complainant struck first blow.	Acquittal
16/11/1869	P.C. struck by drunk man at railway station.	Complainant and second P.C.	No	Conviction

Table 7.3: Six cases of assault heard at Petty Sessions in 1869

Conclusion

A generally downward rate of crime was seen at the Montgomeryshire Quarter Sessions across the 1870s, although crime was disproportionately high in Newtown and Welshpool. The most common single offence was theft, which was observed throughout the county and not confined to urban districts. The gendered nature of offending was evident, reflected in the location and opportunities for crime, and the apparent motivations for some of the thefts. This was particularly notable in the case of clothing which, although stolen by both sexes, was generally sold on by men but retained by women. Females were more likely to steal in populated areas and the goods they targeted were of a limited range. Males, however, through mobility and work, stole a wider range of items from much more disparate locations. For both gender groups, their patterns of offending highlighted their normal patterns of life, and reflected their different, social boundaries. These intangible boundaries meant that opportunities for evading the law were also gendered. Even Mary Ann Nason, who absconded with stolen clothes to Coventry, was tracked down within days because she had returned to home territory.

A determination was shown by victims of theft to seek out and bring to justice those people who had stolen from them. Notable was William Kortright Brock who had entrusted Nason, a known offender, with the care of his children. His motivation may well have been as much, or more, to do with his children being left unattended and upset, as with the loss of his wife's clothes. Nason may have been motivated by a desire for the sort of finery she had observed her mistress wearing but which she herself could never achieve through legal means. Other complainants, including Mrs Pilot and shoemaker Edward Jones, were prepared to meet the cost both in time and money, of following through with a prosecution, even when their goods had been recovered.³³⁶

The offences of violence against the person that appeared in this court were solely committed by males. A certain level of aggression was tolerated by some, but the involvement of a weapon increased seriousness. Underhand methods employed by the

³³⁶ For a discussion how material culture was reflected in literature see A.H. Miller, *Novels Behind Glass: Commodity Culture and Victorian Narrative* (Cambridge, 2008).

complainants or their witnesses, however, appear to have counted against them and could result in charges being thrown out. Although the minutiae of court proceedings and retiring room deliberations are unavailable, it is apparent that all the circumstances of a case, as well as personal feeling and moral sense, contributed to judgements made by magistrates in Petty Sessions and juries in Quarter Sessions alike, but sometimes decisions seemed to go against the evidence.

The following chapter explores the offences, treatment and experiences of a group of women who form a popular topic of study, namely prostitutes.

Chapter 8

Vice

Public Houses, Prostitution and Place



Victorian prostitution and its place in society are a well-studied historical topic, London and urban centres such as York and Portsmouth being particularly well covered.¹ With regard to Wales, Russell Davies has written about the presence of prostitution and drunkenness in urban areas of Carmarthenshire as well as in more rural parts of that county, and David Jones has discussed its presence in Victorian Merthyr Tydfil.² Vice in Montgomeryshire has been unstudied hitherto and the present chapter investigates the degree to which prostitution contributed to crime, and in doing so, questions will be asked about the life stories of these women, as well as their experience of the courts and the attitude of the wider community towards them. There will be investigations into whether the Bench and jury discretion seen before was apparent here also, and if the women's status disadvantaged them.

What sort of women became involved in prostitution?

Dorcas Harding grew up in the neighbouring county of Radnorshire, the daughter of a small farmer.³ By 1861 she was living away from home and by 1869, 20 year-old Dorcas was known to the police in Newtown. She first appears in extant records when

¹ F. Finnegan, *Poverty and Prostitution* (Cambridge, 1979); J. Walkowitz, *Prostitution and Victorian Society* (Cambridge, 1980); E.M. Sigsworth and T.J. Wyke, 'A study of Victorian Prostitution and venereal disease' in Vicinus (ed.), *Suffer and Be Still*, pp. 77-99.

² R. Davies, *Secret Sins* (Cardiff, 1996) pp.161-62; Jones, *Crime*.

³ National Census, 1851.

she faced charges of stealing a gold watch from a man. It seems likely that she was already known to the constabulary as P.C. Richards knew who she was when notified of the loss of the watch by the victim, and found her within a short space of time.⁴ The victim, Maurice Lloyd, told the magistrates he did not give her the watch as payment in kind, and said: 'I had money in my pocket at the time, both before and after I met with the prisoner'. In a similar case heard 12 months earlier, 18 year-old Mary Morris, often known as 'Red Mary' appeared before the county Bench charged with stealing a gold ring from a client.⁵

Theft was a crime that Jones proposes was one of a narrow range of offences committed by women.⁶ Morris's and Harding's offence was a crime that Jones describes as 'traditionally the crime of the prostitute'⁷ and in Merthyr it had become a major activity and source of income.⁸ Judith Walkowitz explains how many prostitutes had respectable occupations before going onto the streets,⁹ and Kellow Chesney writes:

More and more of them depended on selling their labour on a highly unstable labour market, and the wages most of them earned were miserable enough to make them want to seize any means of raising cash. The very fact that women were paid so little meant that employers often used them to replace the men who might have supported them.¹⁰

⁴ P.C.A., M/Q/SR Hilary 1870; *N.W.E.*, 11/1/1870.

⁵ P.C.A., M/Q/SR Hilary 1869; *N.W.E.*, 12/1/1869. Aliases were commonly used by prostitutes. Mary Davies in Shrewsbury was known as 'The Butterfly'; Sarah Ann Davenall was called 'The Great Western'; Elizabeth Hughes was 'Bet o' the Hank' and Margaret Colley was 'Peg o' the Match'. J. Butt, 'Red lights on Roushill', in B. Trinder (ed.), *Victorian Shrewsbury* (Shrewsbury, 1984), p. 70. In Merthyr there were 'Big Jane', 'Big Nell' and 'The Buffalo'. One of Jack the Ripper's victims were known as Long Lizzie. As the word 'alias' implies a serious alternative name, a better term in cases such as these might be 'nickname'. The definition of 'nickname' in the *Concise Oxford English Dictionary* (seventh edition, 1982) is 'a name jokingly or admiringly or contemptuously added or substituted for person's proper name'. Peter King and Amanda Vickery use the term 'nickname' when discussing smugglers in nineteenth-century Sussex, 'Voices from the Old Bailey', B.B.C. Radio 4 (14/8/2014).

⁶ Jones, D.J.V., *Crime in Nineteenth-Century Wales* (Cardiff, 1992) p. 171.

⁷ Note, however, Emsley's comment about perception: Emsley, *The Great British Bobby*, p. 133.

⁸ Jones, *Crime, Protest*, p. 107.

⁹ Walkowitz, *Prostitution and Victorian Society*, chapter 1.

¹⁰ Chesney, *Victorian Underworld*, p. 312.

Chesney describes a young seamstress who said that ‘There isn’t one young girl who can get her living by slop work’ and makes the point that only those whose parents kept them in food and shelter could afford to remain virtuous. Davies tells of a girl in Carmarthenshire who told Llanelli magistrates that it was impossible to be respectable on 10s. a week when rent alone was 8s.¹¹ There are insufficient records to explain what Morris and Harding were doing before going onto the street, but Harding’s elder brother, John, had worked as a carter on a farm near Newtown in the 1860s.¹² It is possible that his sister had followed him from Radnorshire to the town for work in one of the flannel factories or in one of the dressmaking enterprises for which Newtown was becoming increasingly famous.¹³ Maxine Berg and Deborah Valenze explain that the mechanization of spinning and its removal from cottages to textile factories deprived women of small but important incomes unless they followed the work to the towns.¹⁴ Godfrey identifies that ‘for the larger factory masters, women represented a cheaper and more docile workforce than men’, and as noted earlier, they were less costly to employ.¹⁵ George Bernard Shaw commented, when discussing his 1893 play, *Mrs Warren’s Profession*:¹⁶ ‘the truth that prostitution is caused, not by female depravity and male licentiousness, but simply by underpaying, undervaluing, and overworking women so shamefully that the poorest of them are forced to resort to prostitution to keep body and soul together’.¹⁷ Mary Morris (Red Mary) may have been the daughter of a Radnorshire labourer shown living with her family in 1851 but described as a house servant in the Albion pub on Park Street ten years later. Another

¹¹ R. Davies, *Secret Sins*, p. 162.

¹² National census, 1861.

¹³ See advertisements for retail outlets in Chapter 7.

¹⁴ M. Berg, ‘Women’s work, mechanization and the early phase of industrialization in England’ in P. Joyce (ed.), *The Historical Meanings of Work* (Cambridge, 1987); D. Valenze, *The First Industrial Woman* (New York, 1995), pp. 85-127. See also M. Berg, *The Age of Manufactures: Industry, Innovation and Work in Britain, 1700-1820* (London, 1985).

¹⁵ Godfrey, *Policing the Factory*, p. 38. For detail and discussion on women moving into textile centres for work see ‘Women in the textile trades’ in J. Rendell, *Women in an Industrializing Society* (Oxford, 1990), pp. 58-64. For a very interesting discussion on the relation of women’s work in factories, patriarchal interests and balance of capital see G. Holloway, *Women and Work in Britain Since 1940* (London, 2005), pp. 27-30.

¹⁶ K. Powell, *The Cambridge Companion to Victorian and Edwardian Theatre* (Cambridge, 2004), p. 229.

¹⁷ See also ‘Women’s paid employment’ in Rendell, *Women in an Industrializing Society*, pp. 55-78.

possibility for Red Mary was the daughter of a carpenter, living at home with her parents. Peter King describes how many craftsmen were highly vulnerable to poverty;¹⁸ therefore this girl cannot be discounted as being Red Mary even though she had a father who could have been bringing in a reasonable income at times. Of the two, the former seems the more likely candidate, as sources tend to suggest that prostitutes were often the unskilled daughters of the unskilled classes.¹⁹ Circumstantially, the placing of the former candidate in a pub on Park Street is telling, as this area was well known for vice, particularly in public houses as we shall see.

How did prostitutes contribute to levels of crime?

Both Mary Morris's and Dorcas Harding's thefts took place on the street and, as expected from earlier discussion of police reaction to street crime, P.C. Richards was quickly involved. The prostitutes' clients might have found him patrolling the streets,²⁰ or they may have gone to report their losses at the police station which at that time was in Crescent Street, just a little to the north of the river.²¹ Some thefts from clients took place indoors, however, and may have contributed to the chief constables' assertion that there were 'upwards of 60 prostitutes' in 'houses of ill fame' that were 'miserable haunts'.²² Some of these haunts were public houses where, time and again, thefts took place that were subsequently reported. For example, in April 1869 – shortly after the chief constable's invective – farmer Richard Bache transacted agricultural business in Newtown and set off for home along Park Street.²³ He called in at the Picton Arms for a drink and was invited into the parlour by Sarah Lewis.²⁴ They spent 15 minutes on the sofa together after which time Bache noticed that most of his money was gone from his pocket. The landlady was present in the parlour

¹⁸ P. King, 'Summary courts', p. 139.

¹⁹ Godfrey & Lawrence quoting Walkowitz in *Crime and Justice*, p. 145.

²⁰ A short description of a night-time beat patrol can be found in Emsley, *The Great British Bobby*, p. 124.

²¹ See address of police office given in *M.E.*, 2/1/1877. From this location which part-way up a slope there is a good view down Broad Street to the centre of town. Thus, this location was perhaps a better one for observation and surveillance than the ultimate location of the new building detailed in Chapter 3, which gives a poor view of Broad Street.

²² *N.W.E.*, 6/4/1869.

²³ *N.W.E.*, 20/4/1869.

²⁴ The Picton Arms was the next pub along from The Albion, where Mary Morris was working.

initially and was well aware that Lewis and the farmer were together which gives the Picton Arms the appearance of a brothel.²⁵ Public houses were notorious places, and commonly associated with crime and vice. In Shrewsbury, the notorious red light district of Roushill was enclosed by three public houses and a beer shop which were continually linked to prostitute crime. For example, in 1843 the Shrewsbury Chronicle reported:

On Tuesday, Thomas Downs, landlord of the King's Head, was charged by P.C. Thomas with suffering notorious bad characters to assemble in his house...he found about a dozen of the '*femmeéélite* refreshing themselves after a trip on the light fantastic with about 30 gentlemen.'²⁶

A particularly unpleasant robbery took place in what was clearly a brothel in one of the rough parts of Newtown, near the road leading to Welshpool. This was a classic tale of an unsuspecting client being duped, and involved a known prostitute and her pimp, or 'bully'.²⁷ On Good Friday 1870, farm labourer Henry Reese had received his pay from his employer in the nearby village of Kerry. He spent some of the money and then walked to Newtown where he spent time in the company of Ann Lloyd and Stephen Higgs at the house. He later left but returned and negotiated a price with Lloyd to spend the night with her. During the course of the evening, Higgs grabbed Reese and assaulted him, throwing him down the stairs and kicking him. The labourer eventually retrieved his trousers but the remainder of his pay, which he claimed to be about 30 shillings, was gone from his pocket.²⁸ Reese was the sort of client described by Jones as the prostitutes' 'easy pickings' with cash in their pockets and often 'simple fellows from Montgomeryshire or Pembrokeshire with harvest money in their pockets'. It was not uncommon for 'bewildered clients to fall downstairs with

²⁵ In the centre of York a number of public houses and beer shops were apparently used as brothels. *Finnegan, Poverty and Prostitution*, p. 53.

²⁶ Butt, 'Red lights on Roushill', p. 69. Note that the census enumerator of this area in 1861 unusually identified each prostitute and brothel. The etymology of the phrase 'red light area' is unclear but may be from the practice of railwaymen of hanging oil lamps identifying where they were in case they were needed. Sometimes so many of these lights would be seen in any one location that it became known as a red light area. This means that the phrase could date from the mid-nineteenth century and could have been familiar to the community studied here.

²⁷ These bullies often lived with the prostitutes or managed them in brothels, sometimes making their livings entirely through the proceeds of prostitution but often having part-time work. Jones, *Crime, Protest*, p. 108.

²⁸ *N.W.E.*, 26/4/1870 and 5/7/1870.

watches, wallets and trousers in their hands only to lose them to young men waiting at the bottom'.²⁹ Finnegan explains why prostitutes exploited 'foolish young farm labourers':

Obviously, the main reason for this was that the more innocent and inexperienced the client, the greater the opportunity for the prostitute to exploit him.³⁰

This observation does not include pimps in the exploitation.

Crimes could be associated with the presence of prostitutes and their pimps, though not directly with the women. For example, a serious assault took place at the Queen's Head public house when Stephen Higgs was present. (Figure 8.1). The victim described to the court how he entered the pub, intending to go through to the rear of the building but was set upon by another man. He went on: 'John Davies and some of the women of the house separated us ... At that time Stephen Higgs came on and separated us.'³¹ 'Women of the house' could have been barmaids or cleaners, but Higgs' presence means that they were probably prostitutes. Higgs assisted in breaking up the assault in the Queen's Head which means was the sort of bully described by Rule as employed by landlords, ostensibly to act as doormen to the establishment thus keeping undesirables away from the tenants. However, in reality, the bully's job was to 'ensure the punters did not leave without paying their dues.'³²

²⁹ Jones, *Crime, Protest*, p. 107.

³⁰ Finnegan, *Poverty and Prostitution*, p. 117.

³¹ P.C.A., M/Q/SR, Easter 1869; *N.W.E.*, 2/3/1869.

³² Rule, *Worst Street*, p. 80.

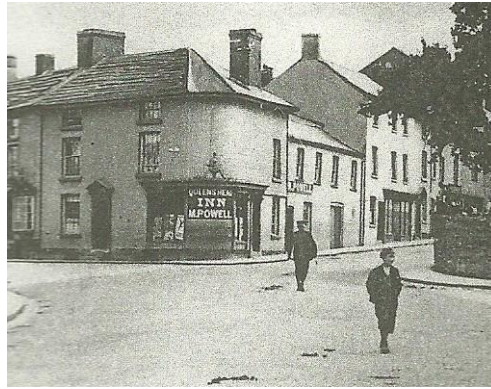


Figure 8.1: The Queen's Head public house (courtesy of Newtown Local History Group)

The Queen's Head was not the only venue at which Higgs could be found involved with trouble. At about the same time as the Queen's Head case, he appeared at Petty Sessions charged with fighting at the centre of town. The detail read: 'They fought two or three rounds near the shop of Mr Lewis, the mercer. John Richards used very foul language, then Higgs struck him down. Some woman eventually came and took Higgs away.'³³

The court records show that other men, too, were living off the proceeds of vice. After Sarah Lewis had picked the pocket of her client, farmer Richard Bache, in the parlour of the Picton Arms, she handed over the money to two men. Lewis herself was described by one witness as 'intoxicated' and another as 'tipsy', and although she later tried to retrieve the coins in order to return them to Bache when he threatened to fetch a policeman, she did not have a hope of getting the money back. Witness Mrs Mary Ann Lowe said:

Sarah Lewis many times said to him, 'Dan, give me that money for the old man or else I shall be in the lock up.' He swore at her and lifted up his hand to strike her, saying to her, 'I'll not g'ie it.' Atkinson on that said, 'Hold fast Dan, her has got two shillings in her pocket, that is enough for her.' Atkinson and Walsh then walked into the slack hole, and while they were there for a few minutes, Sarah Lewis (drunk) fell asleep. [Witness observed the men with gold sovereigns] I then said, 'Now I see who had the money' to which Atkinson replied, 'Shut thy mouth Mary.' They then went out leaving Sarah Lewis sleeping in the shop.³⁴

³³ *N.W.E.*, 18/5/1869.

³⁴ *P.C.A.*, M/Q/SR, Midsummer 1869.

This description of the men's behaviour suits the word 'bully'. It also follows the pattern of the Victorian 'prostitute melodrama', involving loss of virtue followed by a cycle of alcohol and vice, drinking to forget a sin committed under the influence of drink, and may have contributed to the grand jury's dismissal of the case.³⁵

What was the public's response?

As drinking places attracted working men, especially on pay day, it was not surprising that they attracted prostitutes too. Walmgate – the principal thoroughfare in the red-light district of York – contained the most public houses and beer shops in the city, and in 1843, one-sixth of the city's prostitutes lived there.³⁶ In Montgomeryshire, there were regular and frequent calls for public house reform, addressing drunkenness and prostitution simultaneously although the latter was not named specifically. The calls for reform included newspaper correspondence such as this letter:

Public houses are the curse of our land. I hardly ever see a sign, 'Licensed to sell spirits and ale' without thinking that it is a licence to ruin souls. They are the yawning avenues to poverty and rags in this life, and as one has said, 'the short cut to hell.'³⁷

The Temperance movement in the county exerted a pressure on the law-enforcement agencies, although they did not always achieve their aims. This is shown by a letter published in *The Newtown and Welshpool Express* from the disappointed Honorary Secretaries of Newtown Temperance Society:

That the magistrates should have paid so little attention to the strongly expressed opinion of the inhabitants of Newtown is to us a matter of regret; and the Temperance committee cannot but express their surprise that the Publican interest should have resorted to such subterfuge [saying that a Temperance petition had been signed by many children] to deprive

³⁵ For a discussion of this see B. Taithe, 'Consuming desires: prostitutes and "customers" at the margins of crime and perversion in France and Britain, c. 1836-85' in M.L. Arnot and C. Osborne (eds), *Gender and Crime in Modern Europe* (1999, London, 2003), pp. 159-60.

³⁶ Finnegan, *Poverty and Prostitution*, p. 54.

³⁷ *N.W.E.*, 23/2/1869.

the principal ratepayers and overwhelming majority of the working classes of what they petitioned the magistrates to grant [a reduction in licences].³⁸

Here there is a suggestion that the writers perceived that invoking the working classes in the call for reform might carry some extra weight. It may be relevant that the Second Reform Act of 1867 had recently enfranchised many men in the town. A branch of the Reform League had been established in Newtown, and although disbanded by the 1870s, former members – many of whom will have been working- or lower-middle class – were determined to continue campaigning for further democracy.³⁹ An editorial in the same issue of the newspaper said: ‘By the report of the Newtown Petty Sessions which appears in another column, it will be seen that the magistrates, whilst giving notice of their intention next year to limit the number of licences granted to the supposed requirements of the population, have renewed all licences where objections were not made by the police’.⁴⁰ The magistrates were thus aware that they could not remove licences on an *ad hoc* basis, but only if there was a demonstrable reason for doing so in the form of police objections. There seems to be an element of disapproval in the tone of the editorial.

The Temperance movement had grown in response to public concern at alcohol-fuelled disorder. The Temperance Society in Newtown included some prominent citizens including town clerk and schoolteacher William Cooke, and Edwin Dixon who was a boot manufacturer and employer. Sgt Hudson also admitted being a member of the ‘Good Templars’ when giving evidence about a drunkenness in the

³⁸ N.W.E., 21/9/1869. William Rhys Lambert cites data from Caernarfonshire petitions to magistrates to argue that there was strong working-class support for Temperance, for example nine labourers and seven shop assistants on one petition. He does not state what proportion of labourers and shop assistants these were. W.R. Lambert, *Drink and Sobriety in Victorian Wales* (Cardiff, 1983), p. 97. Lambert makes hardly any connection between public houses and prostitution, see his brief comments on pp. 18 and 132.

³⁹ Wallace, ‘Wales and the parliamentary reform movement’, pp. 471-2; 482-4. So also J.K. Walton, ‘The impact of the Second Reform Act’, www.schoolhistory.co.uk (viewed 25/2/2014).

⁴⁰ Here we see a reference to the magistracy in their civil role as administrators of county business. They were superseded in this role by the new county council which was formed after the Local Government Act of 1888. Some J.P.s were elected to the new council and were thereby able to continue their former roles. ‘County Councils Act’, *Oxford Companion to British History*, p. 252. Capt. Mytton was one such man and served on Montgomeryshire Council from its earliest days and was chairman at one point. Obituary of Capt. Mytton, *M.E.*, 22/2/1910.

Eagles public house.⁴¹ The defence lawyer in that case had suggested that the sergeant's motivation for bringing the prosecution was Temperance.⁴² Jenkins writes: 'From the 1830s, the Nonconformists moved towards teetotalism rather than mere moderation in alcoholic consumption. By the 1870s, this new movement had become a social and political force of amazing dimensions',⁴³ but from the words in the editorial quoted above, it seems the same political and social sensibilities were not present in the majority of the Newtown Bench, where we know it was likely that the majority were Anglicans.

Prostitution and its effect on public well-being were at the front of public consciousness during the 1870s. This was following the 1864, 1866 and 1869 Contagious Diseases Acts that had been passed in an effort to control the spread of venereal disease, particularly among enlisted men.⁴⁴ In 1857 William Acton had published his best-selling *Prostitution*, with a second edition published in November 1869, containing provocative comments such as 'a [prostitute]...is free to spread among [her clients] deadly contagion'. There was also detail that some readers might have found titillating.⁴⁵ Earlier in the nineteenth century legal methods existed which allowed for the imprisonment of prostitutes, and some authorities took advantage of this gratefully.⁴⁶ When this law was changed in 1824, the University of Oxford's solicitor wrote of a fear of

⁴¹ See 'I.O.G.T.: a brief history', at <http://iogt-ew.org/history.html> (viewed 4/1/2013). See also Lambert's comments, *Drink and Sobriety*, p. 89. Note the comment that there was 'enormous' space in local government activity for influence and pressure from various groups pressing for social reform, and that although landowners and employers had great power, it was business, labour, religious, recreational and planning groups which wielded greatest influence. Landlords also had influence as they were the main source of council income. B.M. Doyer, 'The changing functions of urban government: councillors, officials and pressure groups', in P. Clarke (ed.), *The Cambridge Urban History of Britain*, pp. 307 & 308.

⁴² *N.W.E.*, 15/4/1873.

⁴³ P. Jenkins, *A History*, p. 202.

⁴⁴ J. Walkowitz, *Prostitution*, Chapter 4.

⁴⁵ W. Acton, *Prostitution* (London, 1968) p. 88.

⁴⁶ The 1744 Vagrancy Act listed who could be prosecuted under the law. The list was a long one and included unlicensed pedlars, men who deserted their families and all persons found wandering abroad. Prostitutes were prosecuted under this law (<http://www.londonlives.org/static/Vagrancy.jsp> (viewed 3/11/2010); A.J. Engel, 'Immoral Intentions: the University of Oxford and the problem of Prostitution 1827-1914' *Victorian Studies* 23 (1979) pp. 80-81.

‘the streets of Oxford being thronged with prostitutes and bullies so that unless other means can be employed to remedy the Evil, its consequences to the morals and credit of the university must daily become more deplorable.’⁴⁷

Some Montgomeryshire prostitutes appear to have been prosecuted under the 1824 Act. According to *The Justices’ Manual* of 1862, the following guidance was given, detailing the legislation:

5 Geo. 4 ch.83, s.3: Prostitutes behaving indecently – every common prostitute wandering in the public streets or public highways or in any place of public resort and behaving in a riotous or indecent manner, to be deemed an idle and disorderly person. Being found on premises for any unlawful purpose: Every person being found in or upon any dwelling house, warehouse, coach house, stable or outhouse or in any enclosed yard, garden, or area for any unlawful purpose to be deemed a rogue and a vagabond.⁴⁸

Table 8.1 lists the offences definitely attributable to prostitutes that were dealt with under the vagrancy law at sessions during the course of a sample period 1869-70.

Newspaper date	Crime	Names	Details	Sentence
30/11/1869	Disorderly conduct	Eliza Oliver, Margaret Davies, Mary Ann Richards	An unspecified location in Welshpool. Charged by Sup. Strefford	Committed for 14 days
4/2/1870	Being in town for an unlawful purpose	Ann Jones	Seen by Sgt Ross with men. Later seen ‘consulting’ with one man next to the doctor’s surgery.	Fined 1s. and costs
5/4/1870	Drunk and indecent	Ann Edwards (alias Sugar)	On the street somewhere in Welshpool.	Fined 5s. or seven days inside

⁴⁷ The Vagrancy Act of 1824 reads: ‘...every common prostitute wandering in the public streets or public highways, or in any place of public resort, and behaving in a riotous or indecent manner...’ (<http://www.statutelaw.gov.uk>, viewed 3/11/2010). The university was concerned that indecency would be difficult to prove and that incidents of riotous behaviour would be few, giving the university limited opportunities for prosecution.

⁴⁸ Stone, *Justices Manual* (1862),

17/4/1870	Wandering public streets late at night	Elizabeth Roberts, Elizabeth Edwards	Had followed the militia to Welshpool	Discharged on condition that they leave town
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Table 8.1: Vagrancy offences attributable to known prostitutes, 1869-70

There is no doubt that prostitution was present in Newtown, and that during the period studied night time in the town centre would have had no shortage of sights of women with their clients. Chief Constable Danily, reported ‘upwards of sixty prostitutes infesting [Newtown]’ and ‘their abominable haunts becoming a nuisance’.⁴⁹ But whereas the University of Oxford has plentiful extant records giving information about the response of the university and the city, there is little information about any public concern or reaction in Newtown. This may be due to local sensibilities finding any involvement with prostitution to be unacceptable. It is interesting that when a new Bill to address the issue of serious disease was being discussed at Quarter Sessions in 1869, the newspaper made clear that it was the Contagious Diseases (Animals) Act that was being debated.⁵⁰ The Local Board held an *in camera* meeting at which the brothels in Newtown might have been discussed but, as the press was prevented from attending, it is impossible to say. However, *The Newtown and Welshpool Express* published a comment about the reporter’s exclusion, which reveals that the content of the *in camera* meeting was leaked. The comment is written in typical Victorian language that skirts around the issue and uses euphemisms, yet there are clues in the report’s language that indicate the topic discussed was prostitution and how to address the matter.

The exclusion of the reporters was no guarantee that the matter then discussed or resolved upon would remain a secret. ... Those whose duty is essentially and vitally truth-telling would not for any meagre consideration prostitute the position they occupy in order to realise a condition of things which is far below their profession. [A member of the Board’s] suggestion is really valuable and meets with the full approval of the medical officers and medical profession of the district. All that is really wanted is an immunity, so far as human means can ensure it, against those evils which again and again

⁴⁹ *N.W.E.*, 6/4/1869.

⁵⁰ *N.W.E.*, 26/10/1869.

distress the community and turn many a happy family into a domestic Ramah.⁵¹

Ramah was the city in ancient Israel where captured Israelites were held before being taken to wicked Babylon. It was also the city where Rachel was said to be heard 'weeping for her lost sons'. Church or chapel attendees would have been familiar with these Biblical references,⁵² and Jennifer Hart's analysis of clergymen's use of religion as a means of social control suggests that this letter was written by such a man.⁵³ The letter appealed directly to peoples' sensibilities. This was an example of the moral campaign against prostitution that Bertrand Taithe identifies as being prevalent during the period of the 1830s to 1860s, and which the newspaper, founded and edited by Welsh-speaking, Wesleyan Methodist Henry Parry,⁵⁴ was happy to publish. During the period studied, the moral crusade was being superseded by more onus being put on the client,⁵⁵ and we shall see examples of this new approach in due course.

There is some evidence that steps were taken by the Local Board to improve conditions on the streets in an attempt to control unacceptable behaviour. Charles Booth was to suggest in the 1880s that: 'The use of dark back streets...by the lowest class of women can only be checked by better lighting and patrolling...'⁵⁶ Newtown Local Board was ahead of Booth for in 1869 they had already plans in place to extend gas lighting to the canal area, the location of the police raid which was to take place in the Waggon and Horses in 1870 and which led to the landlord being convicted of harbouring prostitutes. In November 1869 Ellen Griffiths, wife of a labourer living at the canal basin, very close to the Waggon and Horses, was charged with being drunk

⁵¹ Leader, *N.W.E.*, 6/4/1869.

⁵² Jeremiah: ch. 40, v.1; ch. 31, v. 15; St. Matthew's Gospel: ch. 2, v. 18.

⁵³ J. Hart, 'Religion and social control in the mid-nineteenth century' in A.P. Donajgrodski (ed.), *Social Control in Nineteenth-Century Britain* (London, 1977), pp. 108-38 (especially pp. 128-9).

⁵⁴ 'Henry Parry' in Davies, 'The history of printing in Montgomeryshire', p. 78-80.

⁵⁵ Taithe, 'Consuming desires', p. 153.

⁵⁶ A. Fried and R. Elman (eds) *Charles Booth's London* (Harmondsworth, 1971), p.198.

and riotous. She claimed to suffer from fits and that she had been in one of these fits when the police found her lying prostrate on the ground.⁵⁷

Although a large section of the public, particularly lower-class women, had little input into the administration of justice, the courts nevertheless provided them with a theatre in which they give their opinions, as in a case involving child prostitution. In March 1872 a case came before Quarter Sessions regarding theft from the person by two 12 year-old girls by the names of Eliza Oliver and Elizabeth Ellis.⁵⁸ The man concerned was a travelling salesman from Liverpool who had been in Welshpool on business. After spending time with the girls, the man noticed that his money was gone. As in the case of 'Red Mary' in Newtown, the officer knew the alleged thieves and where to find them, and a subsequent trial took place. The outcome was a conviction, with the girls sent to prison for 21 days followed a reformatory school for five years.⁵⁹ No charges of any sort were laid against the man, but the case was as much a popular trial of him as of the girls. The spectators in the court gave vent to their outrage during the proceedings and later Drennan had to be escorted by police to the railway station in order to protect him from the crowd. *The Newtown and Welshpool Express* reported:

It was evident from the excited condition of the audience that when the prosecutor left the court he would be roughly treated and steps were taken accordingly. A detachment of police officers were sent with him out; when he made his appearance there was a tremendous burst of execration outside and this was followed by a regular stampede... [It was] imperative that he should take shelter down one of the passages

⁵⁷ *N.W.E.*, 16/11/1869. There is no evidence that Griffiths was a prostitute.

⁵⁸ *N.W.E.*, 12/3/1872.

⁵⁹ By 17 & 18 Vict. c. 86 any person under sixteen convicted of any offence punishable upon indictment or summary conviction before a police or stipendiary magistrate or before two justices may, by direction of the convicting magistrate or justices, be sent at the expiration of his sentence to a reformatory school (and it is not now necessary to name the particular school at the time of passing sentence, see 19 & 20 Vict. C. 109 s. 1] the directors of which shall be willing to receive him and be there detained for not less than two years and not exceeding five years; but no offender shall be sent unless the sentence be one of imprisonment for fourteen days at the least. (Stone, *Justice's Manual* (1862)). Oliver and Ellis were sent to the Mount Vernon institution in Liverpool. Investigation has found that this was one of the so-call Church of England 'Magdalene institutions' named after Mary Magdalene of New Testament fame, generally thought to have been a prostitute.

but this was not effected without many blows and kicks being inflicted and for some time the streets were in the greatest commotion.

The chairman of the Bench made the point that had the girls not been above the legal age, Drennan would have been alongside them in the dock facing charges himself. It was cases such as this and the attendant public outcry, and the efforts of reformers including Josephine Butler and William Stead that led to the age of consent being raised to 13 three years later and to 16 years in 1885.⁶⁰ Thus the courtroom could be a public forum for highlighting current matters, with the resulting newspaper coverage of public response and Bench comments helping to add to the debate.⁶¹ The justice system also allowed for a collective protest at the end of the courtroom proceedings that was tolerated and not seen as a subversive action that need to be put down. We shall see such protest again.⁶²

What were prostitutes' experiences of the courts?

Mary Morris pleaded not guilty to the charge of theft from the person. Although she admitted taking the ring, she claimed to have always intended to return it (Figure 8.2). When the presiding magistrate addressed the jury, he pointed out that her client was aware that she had taken the ring and did not attempt to stop her. The jury found Morris not guilty.⁶³ Upon the verdict being given, Morris's supporters, taking advantage of the forum provided by the court, made vocal comment. This was one of

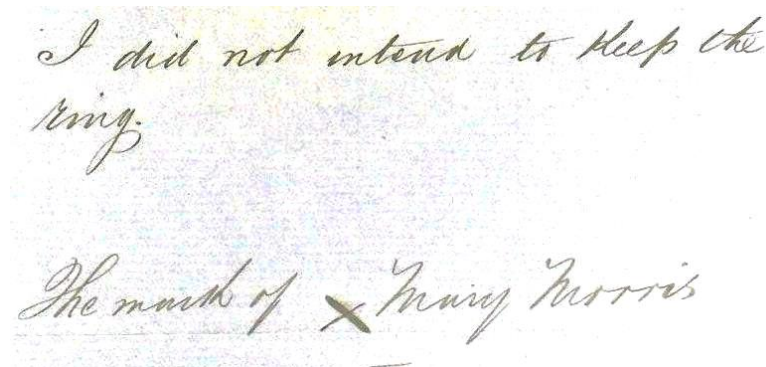
⁶⁰ A short discussion on this topic is found in 'Age of consent' at www.spartacus.schoolnet.co.uk (24/8/2010); Finnegan discusses child prostitution briefly in *Poverty and Prostitution*, p. 81-82.

⁶¹ For discussion about how newspapers could bring crime to public consciousness see R. Sindall, 'The London garrotting panics of 1856 and 1862', *Social History*, 12 (1987), pp. 351-9; P. King, 'Newspaper reporting and attitudes to crime and justice in late-eighteenth and early-nineteenth-century London', *Continuity and Change*, 22 (2007), 73-112; M. Diamond, *Victorian Sensation or the Spectacular, the Shocking and the Scandalous in Nineteenth-Century Britain* (Bath, 2003). For a fascinating method of analysing crime headlines see S. Hester and P. Eglin, *A Sociology of Crime* (London, 1992), pp. 119-28.

⁶² See discussion about studies of collective action in K. Navickas, 'Whatever happened to class? New histories of labour and collective action in Britain', *Social History*, 36 (2011), pp. 197-204.

⁶³ The jury consisted of seven farmers, two skilled manual workers, two retailers and a farm labourer. The grand jury consisted of 11 farmers, five skilled manual workers, one professional and one retailer. This case took place before the new method of jury selection which included manipulation of the jury lists to restrict the number of farmers. (see Chapter 6).

the few opportunities they ever had of giving vent to an expression of feeling in front of the upper orders in society without being arrested for disorder.



*I did not intend to keep the
ring.*

The mark of X Mary Morris

Figure 8.2: Mary Morris's statement in defence.
(P.C.A., M/Q/SR Hilary 1869)

Sarah Lewis pleaded not guilty to the larceny from the person of farmer Richard Bache. The two men who took the sovereigns were to appear alongside her in the dock, charged with receiving stolen money knowing it to be stolen. They too pleaded not guilty. There was plenty of evidence against Lewis: Bache positively identified her, and described in detail the time they spent together in the parlour of the public house. He was certain that he was in possession of the money before the encounter, and that it was gone immediately after. Two witnesses confirmed seeing Lewis with the co-accused, and one confirmed seeing the men with the same amount of money that was missing. This witness also confirmed that Lewis had asked the men to return the money to her so that she could give it back to Bache. There may have been nothing to form a defence for Lewis except a flat denial, but the case did not reach the trial stage as the grand jury decided to throw it out.

If the grand jury had been presented with only the main prosecution case, the trial may well have gone forward. Earlier in the nineteenth century, this would have been the situation, and led to many complaints that appraising cases without access to witness depositions was unsatisfactory.⁶⁴ The fact that the grand jury here ignored the case could mean that they had access to the depositions, for within these lay the words of witness Mrs Lowe. It was she who described Welsh's rough words to herself and Sarah Lewis, and that the accused want to return the money. It could be

⁶⁴ See Bentley, *English Criminal Justice*, pp. 131-2.

that this testimony influenced the grand jurymen, and by throwing out the case, they necessarily had to find the men not guilty of receiving the money knowing it to be stolen.⁶⁵ There was strong prosecution evidence against Sarah Lewis. She may have been fortified in her stance against the charges by Mary Morris's acquittal a few months earlier, but there is a darker possibility. It could have been that Daniel Welsh used force against her, making her deny the charge because a guilty plea from her would mean a conviction for him.

Dorcas Harding was another who pleaded not guilty to a seemingly water-tight prosecution case. She made a defence that must have seemed hardly credible to the grand jury – that the complainant gave her the gold watch – and, indeed, the grand jurymen did send the case forward.⁶⁶ The petty jury, too, found for the prosecution but recommended her to mercy, and the magistrates agreed, deeming the man to be partly to blame. Harding received 14 days with hard labour and was told that she would have received a heavier penalty 'had not the man been blameable'.⁶⁷ There is thus a picture emerging of juries being sympathetic to the women who appeared in the dock. They were willing to give the prostitutes the benefit of the doubt and to take into consideration the part played by the client in initiating the whole course of events. The magistrates, too, in their sentencing accepted the contributing role of the man.⁶⁸

Sentences were heavier when the stolen item was clothing. A notable case involved the theft of a paisley shawl and a bonnet in March 1869.⁶⁹ The shawl belonged to

⁶⁵ The grand jury consisted of eight farmers, six skilled manual workers, two retailers, one agent (unspecified) and one professional.

⁶⁶ Eight farmers, 11 skilled manual workers and four retailers.

⁶⁷ *N.W.E.*, 11/1/1870.

⁶⁸ Barry Godfrey identifies both the view of some magistrates that it was their duty to protect women from violence, and the general difficulty of convicting women. Godfrey, 'Workplace appropriation', pp. 141 & 147.

⁶⁹ *N.W.E.*, 6/7/1869 & P.C.A. M/Q/SR, Midsummer 1869. The shawl may have been valued at over £2 because in October 1860 two women in Caernarfon were charged with stealing a paisley shawl valued at 50s. (Caernarfonshire County Archives, XQS/1861/29). It shows that Lloyd was making a good income from prostitution and could afford good clothes. A female farm haymaker would have had to work for about seven weeks to earn 50s based on the rates shown in Table 3.9. Walkowitz explains: 'To these women, flaunting it "first rate"'

prostitute Ann Lloyd, who was herself to be convicted for theft the following year with Stephen Higgs. The bonnet belonged to Esther Thomas, the woman Sgt Ross had found drunk when clearing a disorderly public house. The perpetrator was Ann Williams, aged 17 years, who was lodging in the same house as Lloyd.⁷⁰ Her sentence was one day in prison for the theft of the shawl and seven years penal servitude for the theft of the bonnet.⁷¹ She had a previous conviction for theft from a year earlier but it appears that the aggravating feature that resulted in the severe sentence was that the crime involved an element of deception, where Williams led Esther Thomas to believe that the bonnet was for the use of Lloyd.⁷² It has been shown how penal servitude was given for repeat offenders but, on the whole, Williams' two thefts with a previous conviction for theft are very similar to those of Sarah Rowlands who appeared in court the following year.⁷³ Why did Williams, who was very young albeit a repeat offender, receive such a severe sentence when Rowlands received only six months for a repeat offence?⁷⁴ It is difficult to answer this question with the available

undoubtedly signified status, autonomy and freedom from the workaday world of their respectable sisters.”

⁷⁰ Stephen Higgs was also living in the house, giving the impression that it was a brothel run by Higgs, or that Higgs was controlling both women.

⁷¹ Examination of newspaper reports shows that other defendants received similar sentences for a series of thefts taking place on different occasions. For example, Edward Edwards was convicted of stealing items on four separate occasions. He was sentenced to six months for the first offence and one day for each of the others. Lewis Hearn and John Smith stole chickens, a turkey and a cob horse on three separate occasions. They received seven years penal servitude for the theft of the horse and one day for each of the others. (*N.W.E.* 20/10/1870).

⁷² In this case, Lloyd went by train to Welshpool and invited Williams to go with her. Williams declined and, on her return, Lloyd found that the shawl was gone. Williams had gone to Mrs Thomas to ask to borrow her black bonnet ‘for Lloyd to wear to Welshpool’ but kept it herself.

⁷³ *N.W.E.*, 5/7/1870.

⁷⁴ In similar cases of theft, the longest sentence was given for the most valuable item. For example, the six months with hard labour that Edward Edwards received in the cases quoted in an earlier footnote, it was for the theft of nine yards of flannel; the other thefts were of low-value items and received one day each. In the case of the theft of livestock mentioned in the same footnote, the cob horse theft received seven years penal servitude whereas the less valuable turkey and chickens received one day each. If this pattern was followed, the theft of the shawl by Ann Williams should have received the greater sentence as it was likely to have been valued at around 50 shillings. The fact that it did not raises questions about whether the magistrates treated crimes against prostitutes, or prostitute-on-prostitute crime, as unimportant. In modern magistrates' courts, too, the value of the item taken is taken into consideration when deciding on the sentence. In the guidance given on assessing the seriousness of the theft, the *Adult Court Bench Book* reads: ‘When assessing the harm caused by a theft offence, the starting point is normally based on the loss suffered by the victim’.

documentation. It is known that the jury in the Rowlands case asked for mercy, and we have seen how the Bench abided by such requests, but Williams was only 17 years of age, which could have been considered worthy of some leniency.⁷⁵ An answer to the question is that different magistrates assigned different weightings to similar offences. Table 8.2 shows the magistrates dealing with Williams' and Rowlands' cases.

Defendant/offence	Court	Magistrates	Sentence
Ann Williams/ theft of shawl and bonnet from women	Midsummer 1869	Sir Watkin Williams- Wynn, J. R. Jones, Malcolm Crewe- Read, W. Fisher	1 day plus seven years penal servitude
Sarah Rowlands/ theft of stockings from headmistress	Hilary 1870	Lord Powis, Sir Watkin, J. R. Jones, Canon Herbert	Three months hard labour
Sarah Rowlands, theft of petticoat from widow	Midsummer 1870	Sir Watkin, J. R. Jones, Mjr. Drew, Canon Herbert	Six months

Table 8.2: Magistrates sitting at Williams' and Rowlands' trials at Quarter Sessions

Here is a feature noted before – that Major Drew's and Canon Herbert's presence on the Bench had a lowering effect on the level of sentence, and could reflect political sympathies. Also shown here is the clear difference in levels of sentence when the theft was from a woman, not a client. It is interesting to note that in 1871, when Sarah Rowlands – who had been convicted twice in 1870 of theft from women – was charged with theft from a client, the case was ignored by the grand jury.⁷⁶

Was the justice system accessible to the prostitutes themselves?

Prostitutes themselves used the law, as for example in a case of prostitute-on-prostitute violence when Sarah Lewis assaulted Catherine Matthews in Ladywell Street.⁷⁷ Matthews reported this to the police and the case went to Petty Sessions. A witness was called to give evidence on behalf of Matthews and when the case was

⁷⁵ The chairman of the Bench told Rowlands that if she had been a few years younger (She was 20 years old at the time) she would have been sent to a reformatory.

⁷⁶ *N.W.E.*, 24/10/1871.

⁷⁷ *N.W.E.*, 19/10/1869.

proved, Lewis received a fine of 1s. or seven days imprisonment. It is not clear from the newspaper report which sentence of the two was carried out. One shilling appears to be a token amount, equivalent to eight copies of *The Newtown and Welshpool Express* (see Table 1) and reflected a feeling of the magistrates that an assault on a prostitute by another was no crime at all, or that ‘each was as bad as the other’. This was seen in a Petty Sessions case from May 1869 when a similar assault took place between two married women, in Mount Street, Welshpool. Neither woman was a prostitute but they had a very long history of ill-feeling towards each other, described in the newspaper as ‘bickering’. The sentence imposed was the same as in the Lewis-Matthews case.⁷⁸ In October of the same year, an altercation between two respectable married women in Ladywell Street which involved a physical assault and abusive language, also resulted in a conviction against one of them.⁷⁹ In this case, the fine was only 6d. which might reflect the defendant’s financial means, or might reflect the fact that costs were allowed. The costs were not mentioned in the newspaper account but were likely to amount to a high figure as there were four witnesses who would lose pay in order to attend court.⁸⁰ At the same set of hearings, a woman was accused by her neighbour of throwing scalding water over her and was fined 5s. This seemingly random set of sentences meant that the justices were considering a number of factors including whether the defendant pleaded guilty or not guilty, whether there were previous convictions and any aggravating or mitigating circumstances, as well as income and ability to pay. A sentence, therefore, was not *per se* an indication of the crime as two different defendants could receive very different sentences for the same offence.⁸¹ Fines that the prostitutes received ranged from 1s. to 5s. In comparison, in Shrewsbury the range that prostitutes received was between 1s. and 10s.⁸² In order to put the fines in context, Table 8.3 shows prices for a range of items during the second half of the nineteenth century.

⁷⁸ *N.W.E.*, 4/5/1869.

⁷⁹ *N.W.E.*, 5/10/1869.

⁸⁰ See comments on expenses in Phillips, *Crime and Authority*, pp.114-7. See also King, ‘Resource available to victims: public funding, prosecution associations, print and policing’, in *Crime, Justice and Discretion*, pp. 47-81.

⁸¹ For details of how this plays out in a modern magistrates’ court see *Adult Court Bench Book*.

⁸² Butt, ‘Red lights on Rousehill’, p. 70.

Item	Value
Complete set of false teeth	£5.
First class return train ticket Newtown-Aberystwyth	4s.
Good seat at amateur concert in Welshpool town hall	5s.
1 day's pay- woman farm worker	1s. 3d.
Small bottle of cough mixture	1s. 1½ d.
Back row seat at Welshpool concert	1s.
1lb pot of honey	8d.
8 eggs	6d.
Copy of <i>The Newtown and Welshpool Express</i>	1½ d.

Table 8.3: Prices of a range of items shown in advertisements in the *Newtown and Welshpool Express* 1869-1870

Thus prostitutes and other women of relatively low status brought small-value cases and assault charges to Petty Sessions where they received the same consideration and discretion as anyone else.

An unusual offence

Victorian prostitution may be considered by some to be the preserve of the female, but there is undoubted evidence of male prostitution, as described by Harford Hyde.⁸³ An incident in Welshpool in 1870 indicates that the practice was going on there, for the hallmarks of female prostitution considered hitherto in this chapter were present: the man involved was commonly known by the nickname 'Spango', met with a man in a public house in the evening, went with him down a side street, and subsequently picked the man's pocket while sitting close to him.⁸⁴ The depositions and cross-examination give details of the events of the night, but nothing to unequivocally identify homosexuality, which was at that time, illegal. Jeffrey Weeks discusses how homosexual acts were considered such a bad 'crime against nature' that they were usually referred to in Latin. Similarly, *The Newtown and Welshpool Express* carried no details about a so-called 'unnatural offence' which was ignored by the grand jury at Assizes in 1874.⁸⁵ The feature that indicates that the Spango incident included something regarded as particularly offensive was the sentence. For the theft of £3 15s.

⁸³ H.M. Hyde, *The Other Love: An Historical and Contemporary Survey of Homosexuality in Britain* (London, 1970); H.M. Hyde, *The Cleveland Street Scandal* (London, 1976).

⁸⁴ P.C.A., M/QS Midsummer 1870; *N.W.E.*, 5/7/1870.

⁸⁵ *N.W.E.*, 27/7/1874. J. Weeks 'Sins and diseases': some notes on homosexuality in the nineteenth century', *History Workshop*, 1 (1976), p. 212.

he was given six months with hard labour. This was the same punishment awarded to a man who stole £25 from the pocket of his employer in a daytime offence, and a woman who embezzled £15.⁸⁶ There is evidence here that this man's pick-pocketing offence was treated differently, and less favourably, to those by known, female, prostitutes.

Conclusion

During the 1870s offences committed by prostitutes were recorded in the urban centres of Newtown and Welshpool. In these towns there was an observable connection between prostitution and public houses, and a corresponding effort from some sections of the community towards curbing both. We have seen how the magistrates in Petty Sessions faced a large number of offences that arose from alcohol consumption, but in their civil role they frustrated some of efforts of Temperance proponents by not removing licences except when requested to do so by the police. The Local Boards were more proactive in undertaking measures to reduce vice.

The crimes committed by prostitutes were typically those of theft from their clients which supports a view that financial constraints had initially sent them onto the streets. Other people benefitted from their offending, including public-house keepers who sometimes were akin to brothel keepers, and pimps who could be violent to both the women and their clients. The acquittals and small fines often given to the women give an impression of generous tolerance, with juries and magistrates using their discretion to put responsibility for prostitute crime into the hands of their clients, thereby following the new shift towards highlighting the role of the client in prostitution.⁸⁷ A difference was seen when a similar offence was committed by a man. In that case, the defendant was convicted at Quarter Sessions and given a severe sentence. Lower-level prostitute offending included street disorder, often involving other women. They sometimes used the justice system to sort out their disputes, and the fines imposed suggest either displays of tolerance or a reflection of the women's income. There were a few severe sentences handed out at Quarter Sessions and, again, the differing personalities of justices can be observed with Sir Watkin

⁸⁶ P.C.A., M/QS Hilary 1872; *N.W.E.*, 9/1/1872.

⁸⁷ Taithe, 'Consuming desires'; p. 153.

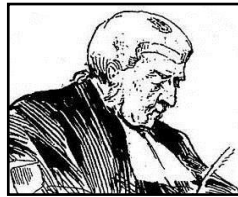
Williams Wynn and John Robinson Jones often harsh in their judgements whereas Major Drew and Canon Herbert tended to be kinder.

The following chapter will examine the proceedings that took place in the highest court, namely the Assizes, and the roles of the various participants.

Chapter 9

Assizes

Class, Reputations and Stereotypes



The highest court in the county was the Assizes. Here a visiting judge directed the flow of proceedings and gave out the sentences, but the general public still played a major part in decision-making since men from the middle classes formed the petty jury as they did in Quarter Sessions. The grand jury here, however, was composed of magistrates and other members of the gentry. Aspects of wider culture were reflected in court, including relations between the different classes from which the various players in the court were drawn.⁸⁸ It is the aim of this chapter, therefore, to identify whether the lower classes were subjugated by the Assizes or if there were ways in which they could make their sensibilities known and obtain satisfaction. It also investigates whether stereotypes and reputations were reinforced by the legal process.⁸⁹ Previous chapters have shown how the majority of offences – mainly those relating to drunkenness – were dealt with at Petty Sessions, with a much smaller number – mainly theft – seen at Quarter Sessions. This chapter will examine the types of cases coming before the Assizes, and the roles played by defendants, complainants and witnesses. Whereas in previous chapters the focus was on the contribution of

⁸⁸ See M.J. Wiener, 'Judges v. jurors: courtroom tensions in murder trials and the law of criminal responsibility in nineteenth-century England', *Law and History Review*, 17 (1999), p. 468.

⁸⁹ The etymology of the word 'stereotyping' is given by Rendell in *Women in an Industrializing Society*, p. 65: 'In the printing industry...taking a mould of sections of type for mass production'. Shani D'Cruze demonstrates how women used the courts to vindicate their reputations in *Crimes of Outrage: Sex, Violence and Victorian Working Women* (London, 1998).

local people, the present chapter considers visiting barristers and judges, and their effect on locals' access to justice. The manner in which evidence was presented, and by whom, is explored, and the contribution of expert witnesses, solicitors and barristers is investigated. It was during the period under study that barristers first appealed to the County Bench for the right of attendance at Quarter Sessions as well as Assizes, and this will be scrutinized to see if reputations played any part in the magistrates' decision to grant the right.

The character of the Assizes

Like Quarter Sessions, the Assizes were a social occasion for the upper classes as much as an assembly that could determine the future lives of some members of the community. The scene was set even before the formal proceedings began, with the judge's parade involving His Lordship in a coach accompanied by marching magistrates, police and trumpeters,⁹⁰ and a service according to the rites of the established Church of England, whereby the majority of the local populace was excluded due to their likely Nonconformist allegiances and possibly their language.⁹¹ *The Newtown and Welshpool Express* always described the judge's parade, for example, at the Spring Assizes of 1869:

The commissions of Oyez and Terminer and general gaol delivery were opened in Welshpool on Monday last before the Rt. Hon. Sir William Fry Channel, one of the Barons of the Exchequer, who arrived by the 2.50 p.m. train. His Lordship was met at the station by the High Sheriff, J. P. Davies Esq. of Fronfelin; A. Howell Esq., Under Sheriff; the other county officials, a detachment of county constabulary with trumpeters and javelin men, and proceeded to the court where the commissions were read. The court adjourned until 10 o'clock on Tuesday morning. At 4.30 His Lordship proceeded to attend divine service at St Mary's Church where ... the Assize sermon was preached by the Rev. William Lutener.⁹²

⁹⁰ See Figures 9.1 and 4.3.

⁹¹ Calculations made from the 1851 Religious Census show that 30% of the county population were practising Nonconformists whereas 2% were practising Anglicans (*Census of Great Britain, 1851, Religious worship. England and Wales*, LXXXIX.1 pp. 126 & 127). See also comments in Chapter 2 of the present work. In her analysis of the bloody events in Paris at the time of the Revolution, Kate Berridge describes royal pageantry as spectacle of power, reinforcing the *ancien regime* of rule by a tiny, unrepresentative minority. K. Berridge, *Waxing Mythical* (London, 2006), p. 120.

⁹² *N.W.E.*, 23/3/1869. One analysis of the religious service is that of Max Weber who commented: '... every physical contact with a member of any caste that is considered lower by the members of a higher caste is considered as making for a ritualistic impurity and to be a

A drawing of a judge's parade is shown in Figure 9.1.

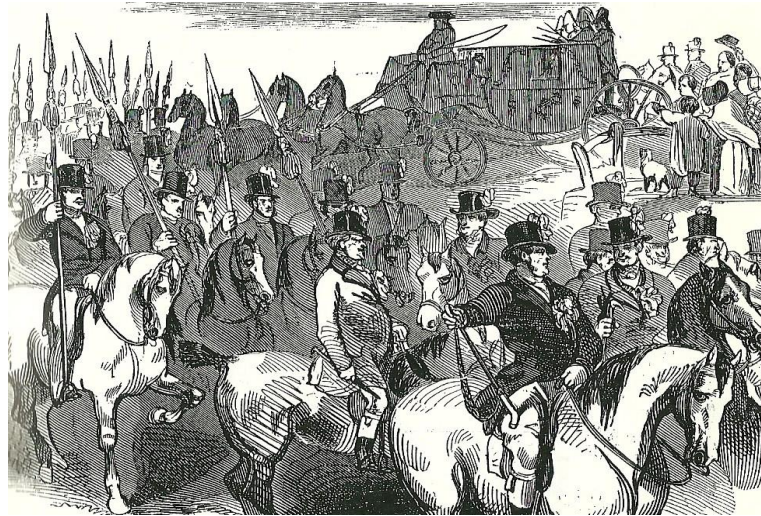


Figure 9.1: A judge's parade in Lincoln, mid-nineteenth century.⁹³

Comments made by judges in their opening remarks to the grand jury could bolster the idea of 'two nations',⁹⁴ and set an agenda for the forthcoming Sessions. For example, in 1870 Baron William Fry Channell said that he 'exhorted the grand jury to assist, by all the means which lay in their power, all institutions having for their aim and object the promotion of sobriety and good order amongst the lower classes.'⁹⁵ At the maiden Assizes in March 1874, Baron Gillery Piggott praised 'the gentlemen of the county' for the 'good example set by the higher orders',⁹⁶ and in 1876 Baron Sir Fitzroy Kelly, Chief Baron of the Exchequer, said:

'Considering the amount of the population and that a great many of the working classes and of the lower order of society were to be found amongst them, it was certainly a matter of great and sincere

stigma which must be expiated by a religious act.' M. Weber, 'Class, status, party', in R.S. Neale (ed.) *History and Class* (Oxford, 1983), p. 65. There is no evidence here, however, that this is the reason for the pre-Assizes service.

⁹³ J. R. Lewis, *The Victorian Bar* (London 1982), p. 49.

⁹⁴ Originally a phrase used in the novel *Sybil, or The Two Nations* by Disraeli to describe the rich and the poor. Used by David Ward to describe the residential patterns in nineteenth-century Leeds created by class difference. D. Ward, 'Environs and neighbours in the two nations residential differentiation in mid nineteenth-century Leeds', *Journal of Historical Geography*, 6 (1980), p. 133.

⁹⁵ *N.W.E.*, 22/3/1870.

⁹⁶ *N.W.E.*, 17/3/1874.

satisfaction to him, and it must be to them, that there were only three cases in the calendar ... It was to be hoped that this was partly due to the care and attention they [members of the grand jury] bestowed in the discharge of their social duties to those around them, and partly, he hoped, to the late legislation with reference to the education of the masses.⁹⁷

Thus there was likely to be an understanding among the gentry that they had a specific role in controlling the greater part of the population, and this may have instilled within the wider community an idea of 'knowing their place'.⁹⁸

The cases

During the decade 1869-78, a total of 80 known cases appeared at the Montgomeryshire Assizes.⁹⁹ These included assault, manslaughter, attempted murder, rape, and a range of other offences but the most prolific was theft without aggravating features with a total of 28 cases. Together with 12 burglaries, offences related to the misappropriation of property accounted for nearly half of the crimes (Figure 9.2).¹⁰⁰ The annual distribution of the crimes involving stolen property is shown in Figure 9.3. Although the range of stolen items included furniture, watches and farm stock, the most common item was money. The amount stolen ranged from a few shillings to £21, and offenders and victims included people from all levels of society although most of the offenders were unskilled workers. The relative numbers of victims and offenders is shown in Figure 9.4. It may be surprising to note that unskilled workers, typically labourers and hawkers, were victims of these higher-value thefts almost as much as skilled workers.

⁹⁷ *N.W.E.*, 4/7/1876.

⁹⁸ Lucia Zedner writes of nineteenth-century prison reformers looking back nostalgically to a time when religious faith, deference and community kept each in his place, L. Zedner, *Women, Crime and Custody*, p. 96. The idea of the classes being kept separate was clear in an 1830 advertisement for a touring exhibition of Madame Tussaud's: 'arrangements [have been made] to admit THE WORKING CLASSES For Half Price during the time the exhibition remains ... In this arrangement, sufficient time will be given for both classes to view the collection without interfering with each other', Berridge, *Waxing Mythical*, p. 227. (Upper-case letters as in the original text). Note that here there was no recognition of a middle class.

⁹⁹ The records of the Spring 1875 Assizes are missing. Spring 1874 was a maiden Assize.

¹⁰⁰ Humphreys found that in Montgomeryshire during the previous century, assault accounted for 53% of persons being prosecuted at Great Sessions whereas property offences accounted for only 28.5%. It has been said that industrialisation led to an increase in theft as people acquired goods. Humphreys, *Crisis*, p. 225.

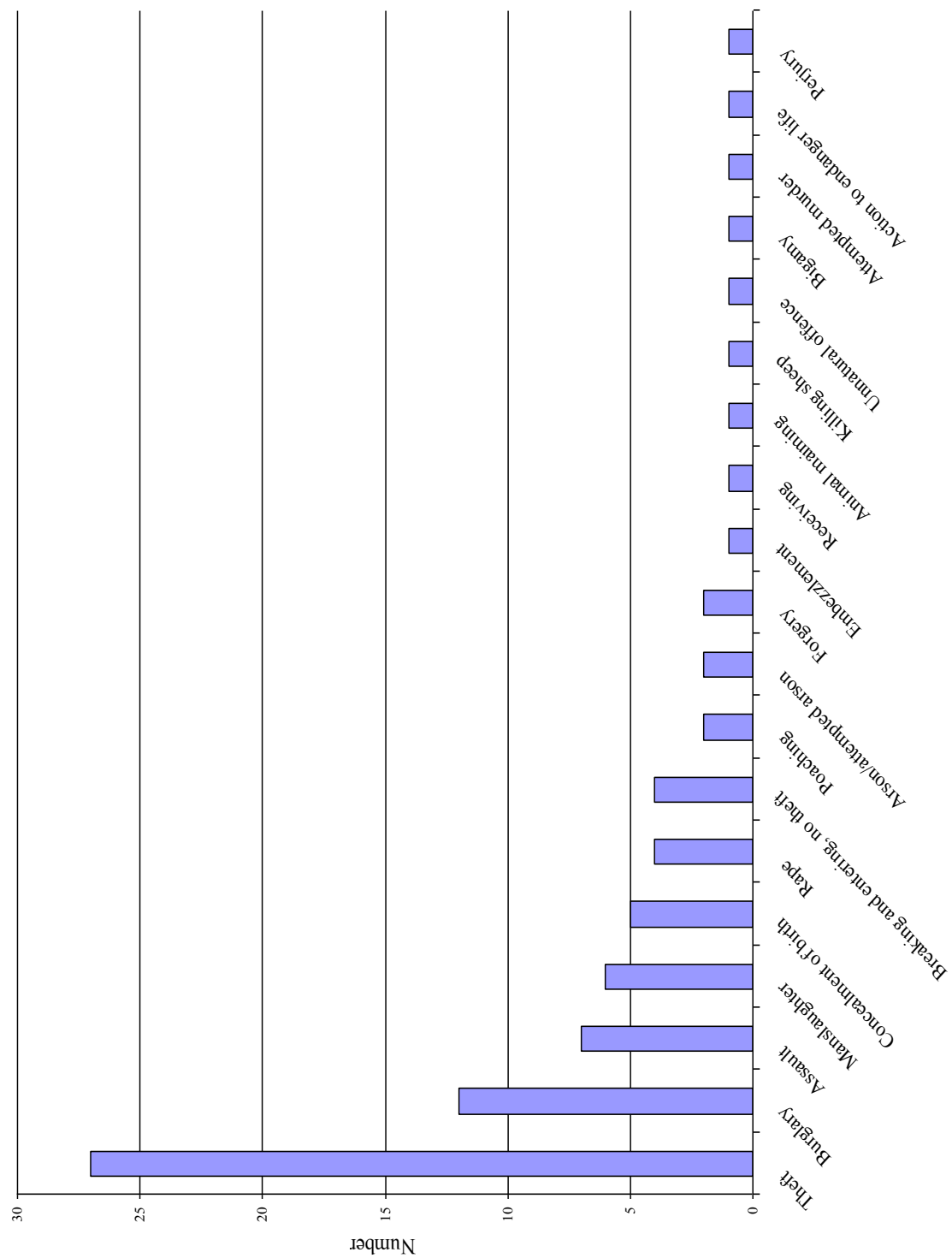


Figure 9.2: Cases appearing at the Montgomeryshire Assizes, 1869-78 (80 in total)

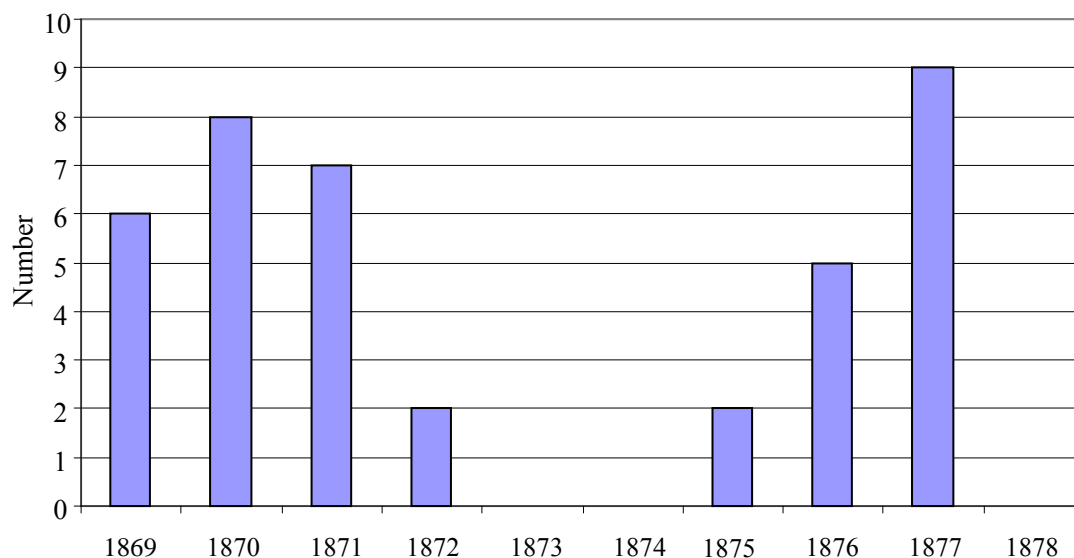


Figure 9.3: Distribution of theft and burglary cases. (38 in total)

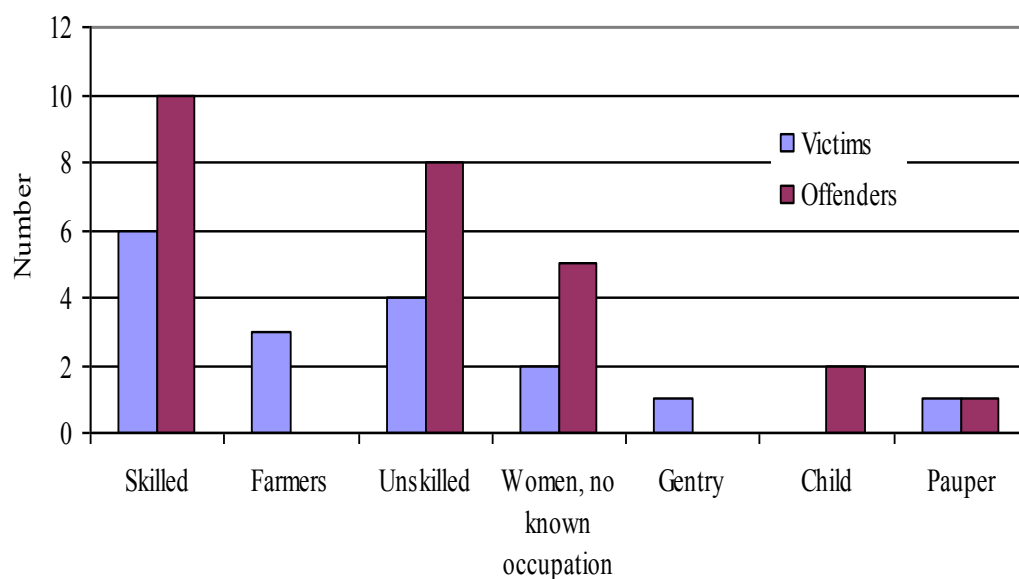


Figure 9.4: Relative numbers of victims and offenders in theft/burglary cases

An illustration of a working-class person being targeted was a 63 year old labourer whose £21, kept in a drawer in his house, was stolen by his lodger, a skilled workman.¹⁰¹ Another labourer victim was John Davies who had spent a number of hours in a public house in Newtown during which time a weaver was observed by an

¹⁰¹ *N.W.E.*, 26/7/1870.

independent witness picking Davies's pocket. The weaver was subsequently convicted after a lengthy trial at the Summer Assizes of 1871.¹⁰² The main points of this case are very similar to Red Mary's theft of George Russell's gold ring two years earlier but the amount stolen from Davies was the relatively small sum of 3s. 3d. This case was surely suitable for a hearing before magistrates at Quarter Sessions and did not merit its appearance at Assizes. Perhaps the explanation is that the committing magistrates considered a theft from a drunken labourer by a skilled worker – one who could afford a solicitor to instruct a London barrister¹⁰³ – to be too serious for Quarter Sessions. An alternative explanation is that the victim in this case, Davies, had bypassed the magistrates and gone straight to the grand jury at Assizes and asked for a bill of indictment.¹⁰⁴ This does appear to be the route Davies took, because no report of a preliminary hearing before magistrates appeared in *The Newtown and Welshpool Express*.

The burglaries took place in different locations all over the county, and were more likely to occur in a small settlement or isolated farmhouse. Only one such offence occurred in one of the borough towns.¹⁰⁵ The items stolen during the burglaries included money but were as likely to be food, clothes and household articles such as candlesticks and linen. Boots were proving to be a very common target for thieves, as were keys. Boot thefts appeared at both Petty and Quarter Sessions and, although circumstances of the offences and details of the perpetrators varied, the way in which the cases were handled seems random. For example, an ironmonger who stole boots and other items from several farmers was sent to Quarter Sessions by a Newtown Bench, but two labourers whose offence was very similar but in the far north of the

¹⁰² *N.W.E.*, 25/7/1871.

¹⁰³ Newtown solicitor William Beecham, and London barrister, J.P. and later M.P., Morgan Lloyd.

¹⁰⁴ Bentley, *English Criminal Justice*, p. 38. The prosecutor would have to present his case to the grand jury, with witnesses if any, and they would consider the bill in the usual way, finding a true bill or no true bill. If a true bill was found, the first the accused would know about it was when he was arrested on a warrant, and he would have to stand trial without knowing anything about the evidence against him.

¹⁰⁵ This supports Woodward's comment that a belief in urban areas as nurseries of crime, offering plentiful targets and anonymity to opportunist thieves, should be treated with caution. The one burglary in a borough town was a case in which the burglar had a specific reason to steal from one particular house (*N.W.E.*, 23/3/1869).

county, were sent by a different Bench to Assizes.¹⁰⁶ As has already been noted in earlier chapters, the justice that defendants received may well have depended upon the magistrates before whom they first appeared, with, perhaps, Newtown defendants hoping to appear before Major Drew. These cases exemplify how local peoples' route to justice, whether they were victim or accused, was determined by the upper classes. The gentry's position was thus reinforced and the same control they had over their servants and other employees was seen again in court.

Now all the parties were to enter the forum of the Assize court where they would see the upper classes playing different roles and still controlling much of the proceedings.

The role of lawyers

By the 1870s, although the police brought public disorder cases to Petty Sessions and were involved in some others, notably those in which the victim was a respectable woman, there were still many cases in which the victim was the prosecutor. The position of Director of Public Prosecutions (D.P.P.) was not created until 1879 after years of debate about the advantages for society of having such a figure.¹⁰⁷ There was nevertheless a degree of professionalization seen in Assize courts prior to this. Lemmings states that evidence from various parts of the country shows that from the mid-eighteenth century prosecutions were increasingly performed by solicitors on behalf of private individuals, and that judges allowed barristers to stand in for defendants, thereby evening up the balance of justice and enabling a more rigorous testing of evidence brought by the prosecution.¹⁰⁸ The investigation of Quarter Sessions in the present study has shown the use of lawyers by both victims and

¹⁰⁶ The case of Edward Edwards, *N.W.E.*, 18/10/1870 and George Wood & William Johnson, *N.W.E.*, 22/3/1870.

¹⁰⁷ See for example *Bill to Provide for the Appointment of Public Prosecutors*, *P.P.* 1854 (15), V.571; *Bill for the Appointment of a Private Prosecutor*, *P.P.* 1872 (28), IV.583. When victims had to be prosecutors they might be intimidated or bought off; civil claims might be pursued through the criminal courts; cases might collapse for lack of funds. P. Rock, 'Victims, prosecutors and the state in nineteenth-century England and Wales', *Criminal Justice*, 4 (2004), p. 338. See also comments in Godfrey, 'Changing prosecution practices', p. 175.

¹⁰⁸ D. Lemmings, 'Criminal trial procedure in eighteenth-century England: the impact of lawyers', *Journal of Legal History*, 26 (2005), pp. 73-74.

accused, and Lemmings argues that when lawyers handled a case, the ordinary person was distanced from the administration of justice, with law and government being done in people's names rather than with their direct participation. Accompanying the increased role of lawyers was the introduction of rational rules about the admissibility of evidence, and modes of expression. For example, the term 'beyond reasonable doubt' began to be used in the middle of the eighteenth century, and medical testimony – even if it was only quasi-professional – was preferred to vernacular observations.¹⁰⁹ Lawyers controlled the jury's access to evidence and, whereas in earlier centuries juries had been active participants in criminal trials they became increasingly silenced, although they still had the power to decide a trial's outcome even, at times as we have seen, going against indisputable evidence.¹¹⁰ Lawyers, thus, were of major importance in higher-court proceedings but there was a significant limiting factor: their cost to the individual victim or defendant. Phillips describes how many prosecutors could afford only the least able solicitor, the sort who would accept the one guinea that the court would award as expenses.¹¹¹ Thus the presence of legal representation could indicate ability, or willingness, to pay and therefore label or marginalise a group. It could have indicated a person's position in the social hierarchy in the same way as clothing, house or seat in the jury box has been shown to do. We have seen how the Llanfair felons association started with an inexperienced lawyer but later acquired the services of the top local solicitor as the association became more successful.

In the present study none of those pleading guilty had a solicitor or barrister to plead on their behalf but on two occasions the judge himself helped to establish the facts of the case. In one of these two cases, a young man was accused of stealing 10 gold sovereigns from his grandfather, a miller, who decided to go forward with a prosecution. After stating the facts of the case, prosecuting counsel applied to the Bench for a lenient sentence, explaining that the youth had been waiting in gaol for

¹⁰⁹ Lemmings, 'Criminal trial procedure', p. 80. Bentley reports that there were countless cases in which judges could be found directing juries that guilt had to be found beyond reasonable doubt, e.g. *R. v. White*, 1865, Bentley, *English Criminal Justice*, p. 205 (footnote 3).

¹¹⁰ Lemmings, 'Criminal trial procedure', p. 81; Ireland, 'Putting oneself on whose country?', pp. 70-73.

¹¹¹ Phillips, *Crime and Authority*, p. 119.

four months. The judge asked the grandfather to take the stand and questioned him as to the nature of his grandson's character. After hearing the evidence, his judgement was to give one month with hard labour.¹¹² In the second of the two cases, the judge asked for the prisoner's father to step into the box then asked him questions to establish the details. He explained his judgement to the father very carefully, and obtained a promise from him to be more responsible.¹¹³ The youth was then discharged. Here is evidence that the judge would assist an undefended party to gain a fair hearing, but whether the parties concerned would regard this as further control by upper classes – and in these cases, by an outsider – it is not possible to know. They may have been very grateful.

Self-defence

Of the 20 individuals pleading not guilty, 17 did not have representation. As explained by Bentley, the defendant had the right to cross-examine the prosecution witnesses,¹¹⁴ but only six of those investigated here did so. Notable was 26 year-old Elizabeth Gough, accused of stealing money from a house in Llanidloes. Not only did Gough cross-examine, but she also produced witnesses to support her side of the story. The judge directed the jury to acquit, and they did so. Thus she had cleverly defended herself against an experienced barrister.¹¹⁵ Gough showed a knowledge of the legal system which she may have acquired through previous appearances in court or she may have sought advice in this case. Whatever it was, she used the established rules of evidence to her advantage and she was not over-awed by the proceedings. Lemmings has said that it was barristers who 'enabled a more rigorous testing of evidence' but here was a local woman doing it herself.¹¹⁶

¹¹² *N.W.E.*, 25/7/1871.

¹¹³ *N.W.E.*, 4/7/1876.

¹¹⁴ Bentley, *English Criminal Justice*, p.148.

¹¹⁵ *N.W.E.*, 27/7/1869. William Wynn Ffoulkes had been called to the bar in 1847. In 1875 he was to become a County Court judge on the Chester circuit. *National Censuses 1861-1901*; memorial inscription viewed at http://members.tripod.com/caryl_williams/index-4.html (Viewed 03/11/2011).

¹¹⁶ Of the 37 females in the dock pleading not guilty, 25 (68%) were undefended. This was the same proportion as males (47 out of 145 not-guilty pleaders).

Two of the cases were burglary by small gangs of tramps, and cross-examination by the defendants themselves in the absence of a defending barrister sheds light on some important details about contemporary police procedure, and again shows lower-class people being knowledgeable about legal proceedings, possibly through previous appearances or discussion with others.¹¹⁷ In the first case, the gang members were apprehended in Chester and the stolen items retrieved from a pawnbroker. At the trial one of the men asked the arresting police officer, a Chester detective, about how he knew they were in the city and which pawnbroker to go to. The detective admitted to obtaining his information from a man named Morris who, he claimed, was with the others at the time of the burglary. Under questioning, witness P.C. Edward Jones of Llanfyllin inconsistently claimed to have followed Morris along a road at the same time as following the others along a different road. The witness Morris was not arrested in Chester and was not present at the trial. Although the use of an undercover detective was not mentioned at the trial, it is possible that Morris was such a person or an informer. As he did not appear in court, his evidence could not be tested. Barbara Weinberger has identified such techniques being used to target vagrancy in 1870s Warwickshire where the chief constable said, ‘...more [apprehension of tramps] will be done by one in plain clothes [than a policeman in uniform].’¹¹⁸ The judge in the case above directed the jury to acquit one of the three in the dock, against whom he said there was no evidence. Support for the informer theory comes from examination of the second case of tramp burglary. Again three men appeared in the dock and questioned the two police witnesses. Two of the three had been arrested in Flintshire but the third was apprehended in an unnamed place by an unidentified officer and the judge decided that there was no evidence against him. During this trial, the judge intervened, making some comments which might have helped the defence. According to *The Newtown and Welshpool Express*, Baron Sir William Fry Channell

Subjected the witness [Sergeant Breeze] to a very severe examination and his lordship made several remarks that were not very complimentary. [Later] His Lordship said that the [prosecution] witnesses had given their evidence in a most disgraceful way.

¹¹⁷ *N.W.E.*, 26/7/1870; *N.W.E.*, 19/3/1872.

¹¹⁸ Weinberger, ‘The police and the public’, p. 85. For a comparison to modern public reaction to undercover policing see R. Evans and P. Lewis, *Undercover: The True Story of Britain’s Secret Police* (London, 2013).

His intervention uncovers a feature of his personality which is confirmed by known facts. Channell's entry in *The Dictionary of National Biography* states that he was severe with regard to criminals,¹¹⁹ and the account of the tramps' trial suggests that his severity could be shown to anyone in the witness box.¹²⁰ This may have given the local populace a degree of reassurance that the law could be fair, and it is likely that they enjoyed hearing about a P.C. being berated. Communities often resented the police, particularly their heavy-handedness to which locals could not respond except through letters to the newspapers.¹²¹ Now here was His Lordship demonstrating heavy-handedness to an officer. The community would have known, however, that only a member of the upper classes could have been spoken in such a way to a P.C. and get away with it. Again, they may have been very grateful.

Stereotypes

The absence of defence counsel indicated the social class of a defendant, and stereotypes were also promulgated in the court. The judges' words to the grand juries at the start of proceedings, such as those of Chief Baron Kelly quoted at the beginning of this chapter, showed their belief that criminals and those of low moral standards were from the working-class majority. Domestic servant Mary Jane Grey, appearing at the Spring 1869 Assizes on a charge of burglary, fitted this pattern.¹²² There was another stereotype that figured largely in nineteenth-century sensibilities and this was the 'fallen woman'. Seduction narratives in fiction, drama, poetry or song commonly concluded with misfortune for the women who had 'fallen', and further misfortune was to be her lot.¹²³ Lucia Zedner describes how the ideal of innocence and modesty was a force that was not restricted to the upper and middle classes but was impressed

¹¹⁹ Biography of Channell, *D.N.B.*

¹²⁰ Peter King discusses how a judge's individual character and attitudes were important: King, *Crime, Justice and Discretion*, p.224.

¹²¹ Bentley explains that an officer's 'natural ambition to convict' meant that there was a fear of invented confessions, and twisting or distorting of a suspect's words. Bentley, *English Criminal Justice*, p. 231. The police also regularly used physical violence to control situations or to informally punish people they felt deserved a beating rather than arrest. Godfrey and Lawrence, *Crime and Justice*, p. 102. See the Christmas street music letter, Chapter 4.

¹²² *N.W.E.*, 23/3/1869.

¹²³ S. D'Cruze, *Crimes of Outrage*, p. 149. The fallen woman followed by misfortune for the rest of her life, is very clearly portrayed in Thomas Hardy's *Tess of the D'Urbervilles*. T. Hardy, *Tess of the D'urbervilles* (1891, London, 1992).

upon working-class girls at elementary school and within the wider community. Community condemnation of neighbours' bad behaviour 'operated as powerful constraints against deviance', and a woman needed to be seen to be morally superior to men.¹²⁴ Mary Jane Grey had failed in this as she appeared in court on the burglary charge in an advanced stage of pregnancy. She tried to provide mitigation for herself by producing documents that she claimed proved great provocation, showing that she thought this might help her. Although the judge would not let Miss Grey take the stand to verbalize her argument, he permitted her to write it down. This he studied, and then read the documents which were letters from a lover who had let her down. Miss Grey had pleaded guilty to this charge of burglary but was facing a second charge of attempted arson to which she pleaded not guilty. She had no defence counsel and there were no prosecution witnesses for her to examine. However, the judge decided that she had not intended arson but had done what she did 'just to let the prosecutor know that she had been in the house'. This seems a rather surprising comment for the judge to make. It appears that he was treating her claims of great provocation as a submission for 'no case to answer'. Bentley explains that the defendant could make such a submission if there was no prosecution evidence on which a jury could properly convict.¹²⁵ This was clearly not the case here as the judge accepted that fire lighting had taken place, and in any case it was for the jury to decide although the judge could make a direction. The clerk of Assize made no observation that was recorded, and the judge sentenced Miss Grey solely for the burglary, without the jury making any judgement on the arson charge. Her punishment was six months imprisonment with hard labour. He added that the labour should be such that she could manage in her condition, and with *The Newtown and Welshpool Express* reporting that Miss Grey 'appeared to feel very acutely the degradation of her position', it appears that the judge looked with sympathy on circumstances of the failed liaison. This sort of benefaction towards unfortunate women has been seen already at Petty and Quarter Sessions, and agrees with two other nineteenth-century stereotypes – that of the 'wronged woman', and that women, being innately good,

¹²⁴ Zedner, *Women, Crime and Custody*, pp. 11-26.

¹²⁵ Bentley, *English Criminal Justice*, p. 146.

would not ordinarily be drawn to crime.¹²⁶ There is also a clue in the language used in the newspaper report: the piece begins with her being described as being of a 'respectable appearance'. Anne Rodrick states, in a discussion of a similar case:

Like this woman, many working-class women in these stories were clearly regarded as 'respectable' even though they were unmarried mothers. Pregnancy and illegitimate children were treated not as grounds for moral outrage against the mother, but rather as interesting and often melodramatic details in the 'crime of passion' stories, since pregnancy frequently proved to be the motive.¹²⁷

Class, too, was an issue in the Grey case. The man involved was middle class, being the son of a man of independent means. He had attended a prestigious grammar school in Wrexham and his brother went on to become a Conservative party agent in the early 1900s.¹²⁸ Rodrick explains how this sort of story was highlighted in Chartist newspapers as they highlighted the difference between the classes, and it also makes this case a 'narrative of a particular genre', involving stereotypes, as described by D'Cruze.¹²⁹

The contribution made by counsel

It has been shown how many defendants were not represented, or acted as their own counsel, sometimes successfully. Investigation now turns to the scenario when a defence barrister was present. Just as the tramp's questioning opened a window on details that he hoped would help his case, so could counsel's examinations reveal details that might make a difference to accused persons who did not have the ability to defend themselves. The 'fallen woman' and 'innately good' stereotypes were discussed in the previous case. A male stereotype, appearing in contemporary popular culture, was also shown in court. This was the country squire – represented in

¹²⁶ The view of women being innately non-criminal was strongly propounded throughout the Victorian period and evidence included observations that women were less competitive than men and more likely to be religiously inclined. Zedner, *Women, Crime and Custody*, p. 23.

¹²⁷ A.B. Rodrick, 'Only a newspaper metaphor: crime reports, class conflict and social criticism in two Victorian newspapers', *Victorian Periodicals Review*, 29 (1996), pp. 5.

¹²⁸ William Henry Davies, traced through the censuses. His brother, Edward, was living in Aberystwyth in 1901. They both attended Chester Street Grammar School, Wrexham, in the 1850s.

¹²⁹ D'Cruze, *Crimes of Outrage*, p. 149.

literature by the likes of Mr Bingley in *Pride and Prejudice* or Edgar Linton in *Wuthering Heights* – a single man of fortune, marrying to produce a legitimate heir. Such a squire appeared in court in 1876, not as a defendant but as the complainant, charging one of his tenants, Anne Jane Jones, with theft.¹³⁰ As with Mary Jane Grey, this story also illustrates the divide between the lower-class woman and the higher-class man. Capt. Devereux Mytton might have thought that his position in the county – magistrate, one-time High Sheriff and kinsman of Viscount Hereford – the sort of man charged with keeping the lower classes in order, would enable him to use the Assizes to his advantage. However, as Mary Jane Grey had used evidence of a failed liaison as a defence, so did Anne Jane Jones's barrister use his professional skills to demolish the reputation of the Captain.¹³¹ In this case the evidence was not so much used to show provocation as a form of mitigation, but to show the complainant in a poor light. Miss Jones was charged with the theft of items from a house on his estate. The items were furnishings that had been seized by bailiffs upon Miss Jones's non-payment of rent as a commercial tenant. However, these furnishings were part of the fittings of the house, belonged to Mytton and should not have been taken. It seems unreasonable for Miss Jones to have been charged when it was the bailiff's mistake, and her counsel's approach was to raise the issue of an illicit affair that had turned sour to account for the charge being brought against her. In the witness box, Mytton was required to answer questions of an intimate nature and was obliged to admit that he had been a regular visitor to Miss Jones's living quarters, even after his marriage, and that he decided to evict her when rumours of her being his mistress first broke.¹³²

The judge summed up with the following words:

Gentlemen of the jury: I do not think there is evidence sufficient to bring the charge under the definition of the criminal law. I do not think there is act of stealing on the part of [Miss Jones]. The woman simply

¹³⁰ *N.W.E.*, 4/4/1876.

¹³¹ Mytton knew his place: in an address to the crowd on his return from honeymoon he said, 'The welcome you have this day given us is an assurance that there is a latent bond of sympathy existing amongst all classes in the neighbourhood, which only requires an occasion like the present to cause it to burst forth'. *N.W.E.*, 18/3/1873.

¹³² The scandal first appeared in February 1875 when Mytton was taken to the County Court by two Shropshire nurserymen. They claimed £30 payment for garden trees ordered by Miss Jones, described as the housekeeper of one of Mytton's properties. She had given birth a year after being installed in this house on Mytton's estate but he denied being the father of the child although he admitted being a regular visitor to the hall. ('A Montgomeryshire magistrate and his dairymaid', *Western Mail*, 25/2/1875).

said nothing. She did not do any act to get rid of them, she simply said nothing when she saw goods belonging to her landlord seized. That was very wrong but not criminal. I must therefore direct you to acquit [Miss Jones].

The jury did acquit but it had been a long and complex hearing, involving the questioning of Mytton's agent, lawyer and various other witnesses. This is the sort of scenario described by Lemmings, where the administration of justice was taken out of the ordinary person's hands, dissimilar to those cases discussed in earlier chapters where the accused persons were able to defend themselves. The rental agreement was scrutinized and the difference between criminal and civil liability discussed. This may have been too far beyond the ability of Miss Jones for her to cope with herself, and before the advent of legal representation she might well have found herself in gaol or hanged.¹³³ Thus, in this case, having the proceedings taken out of her hands was to prove a good move. There is a question over Mytton's motivation for bringing this case which served to keep the scandal in the public eye. His solicitor may have advised him to pursue the case in the civil court, and Mytton must have been very determined to keep on and try to change a private wrong between himself and another party into a public wrong committed against the state.¹³⁴ It is possible that Mytton chose the option that was less costly for him, as he would have had to pay for a civil suit himself. Rock describes how sometimes the criminal law was used by unscrupulous people to pursue a civil claim, and how private prosecution was often said to be deployed in the services of malice, harassment [and] blackmail.¹³⁵ Here there is a suggestion that Mytton thought his position in the county might give him an advantage,¹³⁶ and there are questions about how this case ever managed to get as far as Assizes, let alone to a trial. John Minkes discusses how the courts took care in the rules of evidence and conduct of cases in order to ensure that everyone was subject to

¹³³ The Prisoner's Counsel Act of 1836 recognized the right of a defendant in a felony case to legal representation. Emsley, *Crime and Justice*, p. 53. See C.C. Griffiths, 'The Prisoner's Counsel Act, 1836: Doctrine, Advocacy and the Criminal Trial', *Law, Crime and History*, 2 (2014), pp. 28-47.

¹³⁴ See a succinct comparison of civil and criminal law in Hester, *Sociology of Crime*, p. 170.

¹³⁵ Rock, 'Victims, prosecutors and the state', p. 338. At the end of the trial the judge made the point that this was a case of civil and not criminal liability. There is a question therefore, why it ever came to appear in a criminal court.

¹³⁶ Mytton had been present in the grand juries on the occasions when Barons Channell and Piggott addressed them regarding their roles with respect to the lower classes.

the law to the same degree,¹³⁷ yet the grand jury which heard the prosecution evidence was composed of Mytton's colleagues from the county Bench and included two of his near neighbours, the best man at his wedding three years earlier, and a distant cousin. These personal connections were all public knowledge and would have served to give the local population the idea that the magistracy and court personnel were, to use modern parlance, all in bed together, reinforcing the *status quo*.¹³⁸

This case produces several important points. First, Miss Jones might easily have 'gone quietly' when faced with a law suit against her, but she did not. She took on the challenge, recruited the services of a legal team and provided them with information to enable a winning defence.¹³⁹ Second, the case undermined Mytton's gentry position, with his behaviour itself undermining the words of the judges about the higher orders' role in society. Third, the court system gave the majority in the community the means by which to make their feelings clear: as Miss Jones left the court, she was cheered and congratulated while Mytton himself was jeered and barracked, further serving to undermine his position as a respected member of the upper orders.¹⁴⁰

There was a case in which a member of the new gentry class appeared in the dock. This was William Napoleon Nolan, a property dealer attending a land sale in

¹³⁷ J. Minkes, 'Wales and the Bloody Code', *Welsh History Review*, 22 (2006), p. 696.

¹³⁸ Bentley describes how the selection of trial jurors could be challenged (Bentley, *English Criminal Justice*, p. 95-96) but it appears that grand jurors could not be challenged.

¹³⁹ Miss Jones was the step-daughter of a farmer who owned his own land. He paid the rent that was owing to Mytton so may well have funded her defence. The solicitor recruited Shrewsbury barrister *viz.* Charles Chandler.

¹⁴⁰ For the full story see R. Jones, 'A Montgomeryshire magistrate and his dairymaid', *Mont. Colls*, 101 (2013), pp. 101-108. Some people might have said that Mytton's actions in bringing the charge were verging on the criminal or, at least, bullying. Criminal theory states that crimes of the powerful are committed to enhance competitive advantage, with the individuals having access to [superior] social resources. This can be seen in the Mytton v. Jones case. See White, *Crimes*, p. 107. Note that the sending in of bailiffs unannounced is now prohibited in a new statutory procedure that came into force in England and Wales in April 2014. Landlords must now serve at least seven days' notice before entering a commercial property. It has been said that this new procedure is 'not welcomed by commercial landlords'. 'New rent rules to impact on commercial landlords', *Agricultural Group News*, 1 (2014), p. 4. Mytton claimed that Miss Jones had taken on Trefnanney Hall to run as a business- a hostel for fishermen.

Newtown in December 1868.¹⁴¹ A tradesman made an insulting remark about size of his nose, and Nolan reacted by attacking him with an umbrella, inflicting a wound that required medical attention.¹⁴² Records from the court no longer exist and we have to rely on newspapers but certain facts can be ascertained. First, and possibly most important, Nolan was Irish, and it seems very likely that it was his accent that led to the insults. *The Liverpool Mercury* described him as ‘a hot-blooded Irishman’. He was in Newtown only temporarily and could easily have absconded from justice, and may readily have done so especially as the victim wanted compensation. The magistrates therefore did not grant him bail but held him in custody until the Spring Assizes, an incarceration of three months. However, similar woundings had been dealt with at Quarter Sessions, and we have seen how P.C. Lewis’s knife attack had been dealt with at Petty Sessions. Hilary Quarter Sessions were just three weeks away from the date of the incident, and it is likely that his status as a gentleman resulted in his appearance before a judge at the highest court. Time and again we see that the higher the class of the people involved, the higher was the court that dealt with the offence. Mr Nolan must have been dismayed that his trip to Montgomeryshire with his wife to view land finished with a three-month stay in Montgomery gaol.

The role of expert witnesses

As the professionalisation of courts proceeded from the middle of the eighteenth century, so the idea began that parties could produce their own proof to show from the witness box. Rules about hearsay evidence developed, and thereby the so-called expert witness came about – a person who could give evidence about a case, using knowledge and training, without actually having been present at the time of the offence.¹⁴³ Thus a further level of bureaucracy was introduced although in this area, and for once, a woman could have a role – in the form of a midwife. Nineteenth-century expert witnesses often included men of science such as geologists and

¹⁴¹ ‘Singular case of assault upon a tradesman’, *Liverpool Mercury*, 24/12/1868. In ‘Landed estates court’, *Freeman’s Journal and Daily Commercial Advertiser*, 29/4/1876, Nolan is listed as the lessee of land worth £500 in County Sligo.

¹⁴² ‘Welsh Assize cases’, *Liverpool Mercury*, 18/3/1869; *N.W.E.*, 23/3/1869.

¹⁴³ Golan discusses this in T. Golan, ‘The history of scientific expert testimony in the English courtroom’, *Science in Context*, 12 (1999), pp. 1-12, and names the case of *Folkes v. Chadd* in 1782 as the first instances of expert opinion being taken from a person who was not present at the time of the event. King describes how hearsay evidence was rejected earlier in the eighteenth century. King, *Crime, Justice and Discretion*, p. 225.

chemists or professional men such as clerics and navigators, but perhaps the most familiar figure was the medical expert who could be a physician, surgeon, apothecary or midwife, and who would have a professional reputation that he or she would want to maintain or enhance.¹⁴⁴ Very often the medical expert would be quasi-official having been brought in by a magistrate or coroner to provide non-partisan advice. Landsman cites this as a reason why the prosecution preferred to put this sort of witness in the stand at the end of its case as he was unlikely to help their side much, whereas a medical expert hired by the defence would be more partisan and therefore be heard at the head of that side's case.¹⁴⁵ These witnesses were seen commonly at infanticide and concealment of birth trials where midwives, physicians and surgeons might all appear, because proof of birth and survival of the birth process both needed to be established. Richard Ireland has found that juries in west Wales often ignored expert witness testimony,¹⁴⁶ nevertheless it does mean that details of a highly personal and intimate nature would be heard in open court. The whole process was taken out of the hands of the accused woman, and this would have been the second time of such a trial because the same details would have been discussed at the inquest in a coroner's court.¹⁴⁷

¹⁴⁴ Golan, 'History of scientific expert testimony', p. 15. The midwife's evidence was likely to be brief. The transcribed examination of Mary Ranger, midwife, who appeared at the infanticide trial of Sarah Russell can be found in 'The Victorian medico-legal autopsy' at <http://www.casebook.org.html> (viewed 6/1/2011) which shows that her testimony was to establish that the woman charged was the mother, and to describe the child and mother immediately after the birth. It was the surgeon who followed who was asked about medical details and his opinion about the cause of death. Landsman gives a league table of the medical professions, with physicians at the top and midwives at the bottom. S. Landsman, 'One hundred years of rectitude: medical witnesses at the Old Bailey, 1717-1817', *Law and History Review*, 16 (1998), p. 449. See D'Cruze's comment about strategies of professionalisation ensuring that expertise was consolidated in the hands of males: D'Cruze, *Women, Crime and Justice*, p. 106.

¹⁴⁵ Landsman, 'One hundred years', pp. 449-454.

¹⁴⁶ R.W. Ireland, 'Perhaps my mother murdered me: child death and the law in late Victorian Carmarthenshire', *Communities and Courts in Britain, 1150-1900* (London, 1997), pp. 234-6.

¹⁴⁷ Bentley, *English Criminal Justice*, p. 38. See also E. T. Hurren, 'Remaking the medico-legal scene: a social history of the late-Victorian coroner in Oxford', *Journal of the History of Medicine and Allied Sciences*, 65 (2010), pp. 207-52; B. Heathcote, *Viewing the Lifeless Body: A Coroner and his Inquests held in Nottinghamshire Public Houses during the Nineteenth Century, 1828 to 1866* (Nottingham 2006); P. Fisher, *An Object of Ambition? The Office and Role of the Coroner in Two Midland Counties, 1751-1888* (Ph.D., Leicester, 2003). See N. Woodward, 'Infanticide in Wales, 1730-1830', *Welsh History Review*, 23 (2007), pp. 119-123 for a discussion of the defendant's experiences in court.

A concealment case was heard at Quarter Sessions in March 1871,¹⁴⁸ when single woman Anne Jones, employed by Miss Mary Yearsley, a lady of independent means, appeared in the dock. In October 1870, a servant discovered the body of a newborn baby wrapped in a bundle placed in a spare room. Initially, the coroner's inquest led to a charge of manslaughter but this was dropped on the direction of the judge at the Assizes, and now the prosecution was trying to prove that Anne Jones had concealed the birth of the infant.¹⁴⁹ The first witness was the servant who gave an incriminating description of Miss Jones's attempts to recruit her assistance in disposing of the body, attempts which the servant resisted. Throughout his cross-examination of this witness the defence barrister continually tried to bring Miss Yearsley into the picture, but the servant steadfastly placed her out of the scene and this higher-class, respectable lady was never called to the witness box. The 1861 Offences against the Person Act extended the offence to include any person involved in the concealment, and it is clear that the defence barrister was trying to show that Miss Yearsley must have been party to the concealment. It sounds unlikely that Miss Yearsley would not have been aware of events in her household, especially as the accused woman was Miss Yearsley's companion and normally slept in the same bedroom. The servant did testify that on the night in question, Miss Yearsley had gone to sleep in a different room. Thus it seems very likely that she knew exactly what was going on. Miss Yearsley, however, was the antithesis of the person identified by the legal system as the sort who should appear in the dock, and she never did.¹⁵⁰

¹⁴⁸ *N.W.E.*, 14/3/1871. The inquest on this case was reported in *N.W.E.*, 8/11/1870.

¹⁴⁹ A murder charge in the case of death of an infant often failed but the jury could subsequently return a verdict of concealment of birth if the prosecution could prove that the child was existing independently of the mother at the time of death. H. Marland, 'Getting away with murder? Puerperal insanity, infanticide and the defence plea', in M. Jackson (ed.), *Infanticide: Historical Perspectives on Child Murders and Concealment, 1550-2000* (Aldershot, 2002), p. 168. See also H. Marland, *Dangerous Motherhood, : Insanity and Childbirth in Victorian Britain* (Basingstoke, 2004) and G.K. Behlmer, 'Deadly motherhood: infanticide and medical opinion in mid-Victorian England', *Journal of Historical Medicine and Allied Sciences*, 34 (1979), pp. 403-27.

¹⁵⁰ Margaret Arnot describes how potential witnesses in neonatal murder cases sometimes 'chose' not to see, and illustrates this with a case very similar to the Yearsley one in M.L. Arnot, 'Understanding women committing newborn child murder in Victorian England' in S. D'Cruze (ed.), *Everyday Violence in England*, pp. 55-56.

Next came the midwife.¹⁵¹ She said that she had been summoned by Miss Yearsley on the night of the birth, but denied seeing the lady of the house or having any words with her at the time in question. She also denied knowing that the accused woman was pregnant or had given birth, which seems extraordinary. Perhaps she was trying to distance herself from any culpability, given that the aforementioned 1861 Act could have made her guilty as an accomplice. Next in the witness box was Thomas Barrett, surgeon.¹⁵² He described the events that he witnessed over the weekend in question, and the accused person's denials that she had given birth. He then gave details of the *post mortem*, listing his observations and responding to prosecution questioning that 'death may have been produced by a combination of causes', and that an injury to the tongue of the baby 'may have been caused by the prisoner in her efforts to deliver herself, or may have been wilful'. This candour, and the language Landsman describes as 'seeming to want the symptoms to speak for themselves', was emblematic of the non-partisan nature of medical testimony, even when it was specifically representing the prosecution.¹⁵³ Sometimes when there was evidence pointing in two directions, the court – on its own direction – would call a bystander expert to testify.¹⁵⁴ In the Anne Jones case, after Barrett had made his non-committal comments about the tongue injury, the judge called Edward Harrison to the stand.¹⁵⁵ He, too, was non committal: 'In my opinion, the injuries, if made at all, would have been made after death', and admitted that he did not examine the dead baby. So both the medical men were trying to be non-partisan, and may have appeared to be trying to help the situation of the woman.

The decision was now left to the petty jury, and this introduces a group hitherto unstudied in this chapter. Although the names of the men are not known, the extant jury books giving lists of eligible men show them to be farmers and skilled tradesmen

¹⁵¹ Ann Williams is shown on the 1871 census living in one of the crowded passages in town called Mermaid Passage. Her neighbours were a mix of skilled workers such as tailor and carpenter, and unskilled charwomen and labourers.

¹⁵² Barrett was also a Welshpool magistrate.

¹⁵³ Landsman, 'One hundred years', p. 476.

¹⁵⁴ Landsman, 'One hundred years', p. 467.

¹⁵⁵ Mayor, magistrate and surgeon; one of the extended family that included coroner R.D. Harrison, clerk of the peace J.P. Harrison, solicitor G. D. Harrison and Capt. Mytton.

such as butchers, carpenters and corn merchants.¹⁵⁶ Therefore, the men charged with the key decision in the proceedings were those nearer to the class of the defendant.¹⁵⁷ Petty juries were notorious for their perversity, sometimes being completely at odds with any direction from the judge. Bentley describes the ‘poor quality’ of petty juries, how they lacked education and intelligence, and the Attorney General tried unsuccessfully to introduce a clause to the Juries Bill of 1873 to try to improve matters.¹⁵⁸ Emsley is kinder with his analysis that juries were not simply passive auditors but asked questions.¹⁵⁹ Welsh juries were particularly noted for giving contra-verdicts but here there is a suggestion that religion was playing a part: a writer in the *Cornhill Magazine* in 1877 said, ‘If some of [the jurymen] happen to be also his fellow chapel-goers of the same denomination, the acquittal may, it is feared, be predicted with approximate certainty’.¹⁶⁰ The point here is that a petty jury, composed of ordinary, middle-class men, had important influence and could contradict the decisions made by upper-class men in the grand jury, as they did in the Captain Mytton case.¹⁶¹ There was a division in thought between those who considered the woman committing infanticide or concealment as ‘an object of peculiar compassion and sympathy’ and those who felt she was ‘callous’ and concerned only with ‘getting rid of an encumbrance’.¹⁶² Very often, the petty jury would seem to be of the former opinion, for example in Carmarthenshire, where out of 11 cases where the woman in the dock pleaded not guilty, only one resulted in a conviction.¹⁶³ It has also been

¹⁵⁶ *Montgomeryshire Jury Book*, 1871-74, N.L.W., MSS 21843-44 E.

¹⁵⁷ For a comparison to eighteenth-century petty juries in Montgomeryshire and Essex see Humphreys, *Crisis*, p. 242 and King, *Crime, Justice and Discretion*, p. 243 respectively. For a comparison to nineteenth-century Staffordshire see Phillips, *Crime and Authority*, p. 106

¹⁵⁸ Bentley, *English Criminal Justice*, p. 92. Lewis Carroll put a lengthy satirical scene in *Alice in Wonderland*, taking up a whole chapter, in which he portrayed an incompetent jury. ‘Who stole the tarts?’ in L. Carroll, *Alice in Wonderland* (London, 1865).

¹⁵⁹ Emsley, *Crime and Society*, p. 202.

¹⁶⁰ R.W. Ireland, ‘Putting oneself in whose country?’, pp. 70-71.

¹⁶¹ In 1755 the Earl of Powis brought a prosecution against eight men for stealing and receiving lead from the roof of Powis Castle. The petty jury acquitted them when a flaw in the indictment was brought to their attention (Humphreys, *Crisis*, p. 244). In his contradiction of David Hay’s argument that the legal system was a ruling-class conspiracy, Langbein writes: ‘If I were going to organize a ruling-class conspiracy to use the criminal law to terrorize the lower orders, I would not interpose autonomous bodies of non-conspirators like the petty juries’ (J. H. Langbein, ‘Albion’s fatal flaws’, p. 107).

¹⁶² Zedner, *Women, Crime and Custody*, p. 29.

¹⁶³ Ireland, ‘Perhaps my mother murdered me’, pp. 236-8.

argued, however, that when magistrates made such dismissals, it was because of distaste that the case had ever been brought.¹⁶⁴ In the Anne Jones case, there may have been issues to do with Miss Yearsley's possible part in the events and her non-appearance in court. The jury may have considered that not all questions had been answered. After a lengthy discussion, including an hour in the retiring room, the jury in the concealment case returned a verdict of not guilty.¹⁶⁵ Baron Sir George Willshire Bramwell¹⁶⁶ was surprised: before sending them to the room he had told them to find the prisoner guilty.¹⁶⁷ When they delivered their judgement he said, 'I hope you will be able to reconcile your consciences with the verdict you have given, for by no mental process can I discover the means by which you have been able to do so'. This was not the only controversial comment he made. As Miss Jones was released from the box, she was greeted with clapping and 'other outrageous demonstrations'. A woman was brought to him by people, who told the judge that she had been the one making the noise. He said, 'Well, well. But considering her appearance and considering the character of the jury I think that if they can be forgiven for forgiving the prisoner, then she ought to be forgiven for applauding.' This was then reported widely. For example, in *The Exeter Flying Post*:

The Assizes have passed off in Exeter without anything particularly worthy of comment, and the learned judges, as far as I can learn, have not had much fault to find with the decisions of the juries. Not so at Welshpool where Mr Baron Bramwell has been forced into an expression

¹⁶⁴ Davies, *Secret Sins*, p.174.

¹⁶⁵ Humphreys makes the comment: 'Of greater significance [than the grand jury] to the processes of trial and verdict was the petty or trial jury who decided on the guilt or innocence of the indicted'. (Humphreys, *Crisis*, p. 242.

¹⁶⁶ Known as Baron Bramwell because he was a baron of the court of the exchequer: Bentley, *English Criminal Justice*, p. 65.

¹⁶⁷ King describes how, if the crime was one the judge considered must be suppressed, his neutrality might soon evaporate. (King, *Crime, Justice and Discretion*, p. 224). Note also that although Langbein states that having a jury removed a judge from the adjudication (see Chapter 6 of the present work), he also describes 'progressive dethronement' of the jury via judges' directions. Langbein, 'Bifurcation and the bench', pp. 77-80. When it was concealment of birth, Baron Bramwell was particularly strong-minded. He wrote in a letter that he 'had no doubt the legislature meant the judges to give a very severe sentence when there had been foul play with the child, and a nominal sentence when there was no suspicion of anything wrong. But the judges won't be parties to this kind of fraud – one can call it nothing less'. (Letter from Bramwell to Frederick Pollock quoted in T. Ward, 'Legislating for human nature: legal responses to infanticide', in Jackson, *Infanticide*, p. 256).

of disgust at the impenetrable stupidity or the disgraceful dishonesty of juries.¹⁶⁸

However, a journalist on *The Oswestry Advertiser* argued the point:

In defence of Welsh juries: The daily papers which, English-like, seem to delight in poking fun at other peoples, have this week contained a paragraph headed 'Baron Bramwell and a Welsh jury' in which the case of concealment of birth at Welshpool and the strange verdict returned are recorded. The verdict was strange enough but the foreman of the jury was an Englishman. And what, after all, is the absurdity of this verdict compared to that which a London jury returned in the Tarpey case?¹⁶⁹

The Newtown and Welshpool Express then added in a leader:

Mr Baron Bramwell is again amongst us and has had occasion, perhaps rightly, not quite to express his satisfaction with a Welsh jury at Montgomeryshire Assizes. A Welsh contemporary has taken up the cudgel and delivers a rebuke to the English dailies. Reference is made to the Tarpey case and the palpable miscarriage of justice when a ladylike appearance and a baby in arms did more in favour of the accused than the impression on the minds of the jurymen usually made by learned counsel.¹⁷⁰

¹⁶⁸ *The Exeter Flying Post*, 15/3/1871. King mentions a particularly sarcastic comment made by Judge Carter at Essex Lent Assizes in 1739. King, *Crime, Justice and Discretion*, p. 224.

¹⁶⁹ Reprinted in *The Liverpool Mercury*, 16/3/1871. The Tarpey case was a diamond robbery that took place in London in 1870. The trial took place at the end of February 1871. One of the two accused was a young woman with a baby. She pleaded guilty but was deemed by the jury to be not guilty, and released. This trial took place at the Central Criminal Court before the recorder. The judge on the rota for attendance during the week was Bramwell. *The Times* 21/2/1871.

¹⁷⁰ *N.W.E.*, 21/3/1871. The comments of the judge were similar to those made by the Anglican commissioners who wrote the notorious reports on education, which became known as *The Treachery of the Blue Books*. For a discussion on how the commissioners used language to establish superiority and to communicate their view of themselves as authoritative men see G.T. Roberts, 'Under the hatches: English parliamentary commissioners' views of the people and language of mid nineteenth-century Wales,' in B. Schwartz (ed.), *The Expansion of the English Race: Race, Ethnicity and Cultural History* (London, 1996), pp. 171-97. The education reports were published in 1847, within the lifetime of many of the people attending the Assizes during the period studied. 'Impression... made by counsel' could be a reference to the performances made by counsel in court. Barristers knew they could acquire fame through their performances in court, and, in fact, barristers attended stage school to acquire presentation skills, and various bars from around the country had traditions of putting on plays. The public treated the court as a theatre, too, and it was not until 1860 that entrance fees to court were abolished. Lewis, *The Victorian Bar*, pp. 13-15. There are descriptions of barristers' performances in D. Pugsley, 'The Western Circuit', *Bracton Law Journal*, 26 (1994), pp. 43-54.

This debate may well have pleased Bramwell as he is known to have enjoyed controversy.¹⁷¹ A picture of Bramwell is shown in Figure 9.5.



Figure 9.5: Sir George Willshire Bramwell caricatured by Spy (Leslie Ward) in *Vanity Fair*, January 1876.¹⁷²

Reputations of experts

It has been shown how stereotypes could be perpetuated, and personal reputations brought down in court. As expert witnesses became a feature of the legal proceedings, there were now opportunities for professional reputations to be affected. Medical experts tended not to contradict each other. Landsman discusses how they avoided partisan and judicial contests wherever possible, largely because medics needed to inspire confidence in the public who paid their fees. Landsman cites this as a reason why there was a paucity of recorded battles between experts.¹⁷³ However, one such battle was seen at the Montgomeryshire Spring Assizes of 1873 when Jonathan Edwards appeared in the dock accused of the manslaughter of William Jones.¹⁷⁴

¹⁷¹ Biography of Bramwell at <http://en.wikipedia.org> (viewed 1/11/2001). Bramwell is described as a 'staunch individualist' in R. Cocks, 'Victorian barristers, judges and taxation: a study in the expansion of legal work', in G.R. Rubin and D. Sugarman (eds), *Law, Economy and Society, 1750-1914* (Abingdon, 1984), p. 447.

¹⁷² Picture viewed at http://en.wikipedia.org/wiki/George_Bramwell,_1st_Baron_Bramwell (28/11/1011).

¹⁷³ Landsman, 'One hundred years', p. 486.

¹⁷⁴ *N.W.E.*, 18/3/1873.

Edwards had followed Jones out of a public house and gave him a severe kicking and beating, particularly around his private parts. Jones survived the assault and was attended in his house by his usual medical practitioner, a surgeon by the name of Thomas Edwards. Jones lived for a further nine days. A *post mortem* was performed by an independent local surgeon with Thomas Edwards in attendance. Both these experts appeared for the prosecution at Assizes and yet they gave conflicting evidence. Mr Justice Mellor referred to this in his charge to the grand jury:

There appears to be a great difference in opinion with regard to the medical testimony. One gentleman, Dr Edwards, who has frequently attended the deceased during life and was with him in his last illness, most positively affirms that the cause of death in this case was congestion of the lungs, while on the other hand Dr Huddart, who made a *post mortem* examination of the body states that the deceased's death resulted from external injuries received. You will, therefore, in this case be guided in the manner in which the respective medical men gave their evidence *viva voce* as to whether you can reconcile the apparent great difference of opinions held by these gentlemen.

A detail that is not apparent in the coverage of the case but is obvious from the censuses is that Dr Edwards was aged 61 years and had been practising in the locality since at least 1851; Dr Huddart was a newly-qualified, 23 year-old surgeon.¹⁷⁵ Some of the techniques that the older man used were old fashioned. For example, he spoke of how he bled the victim in order to reduce his fever. However, blood letting had gone out of favour years before. In fact, Edinburgh doctors invented a theory in the 1850s to explain why they no longer favoured the treatment, without losing face for having used it in the past.¹⁷⁶ Mr Justice Mellor's direction to the grand jury draws attention to Edwards' experience and knowledge of the deceased, but tactfully does not dismiss Huddart's few years in practice.

¹⁷⁵ Although the judge referred to Edwards and Huddart as doctors, in the censuses both men gave their occupation as surgeon, normally addressed as 'Mr' (doctor of medicine, master of surgery). Doctors were university-trained scholars and expected to employ an analytical approach to deciphering the internal ills of their patients, while surgeons concentrated on external injuries, wounds and conditions amenable to manual or operative intervention. Landsman, 'One hundred years', p. 452; W. Byrnum, 'When did medical practitioners start to be called 'doctor'?', *B.B.C. History*, July 2013.

¹⁷⁶ J.H. Warner, 'Therapeutic explanation and the Edinburgh bloodletting controversy: two perspectives on the medical meaning of science in the mid-nineteenth century', *Medical History*, 24, 1980, p. 244-5.

The same judge bolstered the reputation of a solicitor's clerk in 1878 when he directed a jury to believe the clerk's evidence over five working-class witnesses in a case of attempted murder.¹⁷⁷ Here, a gamekeeper had been shot by a poacher on an estate a few miles from Newtown. Tim Shakesheff argues that the sentences given for night poaching in groups was so severe that the poacher felt compelled to resist violently when confronted by a keeper.¹⁷⁸ Poaching has also been linked to rural poverty, and a connection made between poaching and reduced winter rates of poor relief under the new poor law, and winter unemployment.¹⁷⁹ However, here there was nothing to suggest that desperate need was a factor. In fact, the defendant totally denied any involvement. His defence was that he had been at home with his mother at the time of the offence, then later in a pub. The clerk, however, claimed to have seen him on the road near the shooting, and the jury and judge considered that this professional person's evidence was by far the more reliable. The convicted man was a weaver – the very sort identified by John Archer as the particular breed of man who would undertake night poaching.¹⁸⁰

Sexual assaults

An area in which reputations of both prosecutor and defendant could be crucial was in cases of sexual assault. David Jones writes that study of Merionethshire police books shows that many crimes of a sexual nature did not proceed to higher courts.¹⁸¹ His studies found that when rape cases did come before the Quarter Sessions and Assizes, often the magistrates or judge would instruct the grand jury to ignore bills

¹⁷⁷ *M.E.*, 19/3/1878.

¹⁷⁸ Shakesheff, *Rural Conflict*, p. 163.

¹⁷⁹ K. Snell, *Annals*, pp. 126 & 193. Osborne, however, has linked the pattern of poaching in the winter months to the availability, maturity and marketability of the animals, and although he accepts the economic and social motivations for the offence, he notes that poachers usually were skilled workers, rather than poor agricultural labourers, who mostly viewed poaching as a sport. H. Osborne, 'The seasonality of nineteenth-century poaching', *Agricultural History Review*, 45 (2000), pp. 28 and 34. Out of 267 offenders discussed by him, 31% were general labourers, 20% craftsmen, 17% miners, 4% railway workers, 4% farmers/farm workers and the remainder had a range of occupations including domestic servants and retailers).

¹⁸⁰ John Archer has moved the Shakesheff's and Snell's debate on by identifying armed night poachers as a particular breed, tending to be canal men, colliers and weavers who were very likely to commit other offences, J.E. Archer, 'Poaching gangs and violence', *British Journal of Criminology*, 39 (1999), p. 29.

¹⁸¹ Jones, *Crime*, p.79

where there was evidence to throw doubt on the victim's evidence. Sometimes juries might reduce a charge to common assault, and very often the accused person would be acquitted.¹⁸² During the period 1869-78 a total of four rape cases appeared at Montgomeryshire Assizes and in none of them was the accused convicted.¹⁸³ One of these was the case explored earlier, where P.C. Edward Jones of Llanfyllin obtained a report from a professor at Shrewsbury regarding blood stains. Although the contents of the report are unknown, the grand jury decided to ignore the case after hearing the prosecution evidence, so the report may have helped the defendant by throwing doubt on the circumstances of the assault.¹⁸⁴ Two other bills were also ignored and in the fourth case the man was acquitted mainly because the woman waited several days before bringing the charge.¹⁸⁵ Jones discusses how many victims gave up their attempts at obtaining justice because it was so difficult to get a conviction, and because of the trauma of the trial.¹⁸⁶ Judges, he says, were always looking for signs of enticement, or prevarication, and, indeed, Mr Justice Mellor, at the Spring Assizes of 1873 advised the grand jury that 'a woman of ordinary strength could have resisted an assault'.¹⁸⁷ Emsley suggests that there might have been a feeling in Bedfordshire that such charges were being used too freely,¹⁸⁸ but this could hardly be so in Montgomeryshire with only four cases being pursued in ten years. Carolyn Conley

¹⁸² Jones found that other crimes of a sexual nature such as bestiality or sodomy rarely appeared. In this study there was one case of an 'unnatural offence' but this was dismissed, with no details except the defendant's name reported in the newspaper. (*N.W.E.*, 21/7/1874). Phillips found that the reticence of newspapers in nineteenth-century Staffordshire to report details of sexual offences was especially marked in cases 'of an unnatural nature' (Phillips, *Crime and Authority*, p.269). See Phillips, *Crime and Authority* p. 271 for a list of sentences given for rape convictions.

¹⁸³ *N.W.E.*, 27/7/1869, 14/3/1871, 18/3/1873 and 4/4/1876. Conley found that in nineteenth-century Kent 40% of rape cases ended with a conviction whereas in all other criminal cases it was 85%. C.C. Conley, 'Rape and justice in Victorian England', *Victorian Studies*, 29 (1986), p. 521.

¹⁸⁴ The National Archives have Assize records for the Chester and North Wales circuit from the 1870s but they are mostly from Chester Assizes with a few from Caernarvonshire and Flintshire but none from Montgomeryshire, thus Professor Johnson's report no longer exists. (*T.N.A.*, ASSI 65/8, 65/9 & 65/10).

¹⁸⁵ *N.W.E.*, 4/4/1876.

¹⁸⁶ The woman at the centre of the case in which John Pilot accused Sgt Ross of perjury, left the area after a preliminary hearing before magistrates, in which intimate details were discussed and widely reported.

¹⁸⁷ *N.W.E.*, 18/3/1873.

¹⁸⁸ Emsley, *Crime and Society*, pp. 184-5.

argues that it was the relative respectability of the parties that was of crucial importance; that army officers, other men in uniform and employers were rarely convicted of rape.¹⁸⁹ Shani D'Cruze explains that when a woman tried to prosecute a man for rape she jeopardized her reliability as a witness because she was now making her respectability questionable.¹⁹⁰

Professionalisation of the courts and implications for local people

John Langbein has explored how solicitors began to be involved in private criminal prosecutions from the eighteenth century, and how judges started allowing defence counsel to take part in trials from the 1730s. He describes this as a 'fateful step', beginning the path towards the adversarial criminal trial, but admits that documentary evidence of the reasons for the change in practice does not exist.¹⁹¹ He argues that barristers began appearing in numbers at the Old Bailey following a series of scandals involving flaws in the operation of the trial process,¹⁹² and David Lemmings explains that their appearance at courts elsewhere soon followed.¹⁹³ By the 1870s barristers had been attending Montgomeryshire Assizes for some years following the establishment of these Assizes upon the abolition of the Court of Great Sessions where solicitors had held right of audience.¹⁹⁴ Barristers subsequently started looking for work at the lower courts too, and approached Montgomeryshire Quarter Sessions at the beginning of the 1870s.¹⁹⁵ Here the exact moment of the change in practice can be pinpointed, and, as Langbein found at the Old Bailey in the eighteenth century, it was the result of a scandal, and in this case it involved the withholding of justice from a lower-class woman.

¹⁸⁹ Conley, 'Rape and justice', pp. 526-530.

¹⁹⁰ S. D'Cruze, 'Sex, violence and local courts', *British Journal of Criminology*, 39 (1999), pp. 39.

¹⁹¹ J. H Langbein, *The Origins of the Adversary Criminal Trial* (Oxford, 2003), pp. 106-7.

¹⁹² Langbein, *Origins*, p. 110.

¹⁹³ D. Lemmings, 'Criminal trial procedure in eighteenth-century England', *Journal of Legal History*, 26 (2005), p. 73.

¹⁹⁴ Bentley, *English Criminal Justice*, p. 97.

¹⁹⁵ See Bentley, *English Criminal Justice*, pp. 98-101 for information about the sorts of men who became barristers, their backgrounds and training, etc.

Before barristers made their way into Quarter Sessions, it was solicitors, when employed by prosecutors or defendants, who examined witnesses to elicit information. Things went badly wrong for the solicitors in Midsummer 1871, and it was this debacle which allowed the barristers to find a way of obtaining right of audience at Quarter Sessions. John Thomas was accused of stealing a watch from David Jones, and Sarah Anne Jones was charged with receiving it from Thomas.¹⁹⁶ Local man Charles Howells prosecuted the case, and Thomas and Sarah Anne Jones each had their own defence solicitors. The details were complicated, involving evidence from police officers in two towns, and with various people handling the watch at different times. At the end of the trial, presiding magistrate and deputy chairman of the Bench, Charles Watkin Williams Wynn, summed up favourably with respect to Thomas and unfavourably to Jones. The jury then acquitted the man of theft but convicted the woman of receiving the watch knowing it to be stolen. This contradiction was apparently unobserved by the clerk and Williams Wynn who sentenced her to six months hard labour. The only people in the courtroom who appeared to notice the contradiction were Sarah Ann Jones herself who was led away ‘strongly denouncing the injustice of her sentence’, and the reporter from *The Newtown and Welshpool Express*. He wrote:

From time to time we have heard much of the glorious uncertainty of the law and frequently we are to oblige to be witnesses of its absurdities. Last week a case of the kind occurred which may in some respects be considered the climax. In referring to it we do not do so for the purpose of provoking a smile at the expense of the jury who tried the case, or to join in the remarks which were made by some who heard the verdict delivered.¹⁹⁷ Our opinion is that in the manner in which the case was delivered to them there appeared to be no alternative but to act in the manner they did. ... We know it is practicable and is practised, to withdraw a major charge and to prefer a minor, but whether the same rule applies to the abandonment of the minor charge and the substitution of the greater, we are not lawyers enough to say. The whole affair is not satisfactory.¹⁹⁸

¹⁹⁶ *N.W.E.*, 4/7/1871.

¹⁹⁷ Possibly a reference to Jones’s ‘strong denouncing of the injustice’. Note that this courtroom scene was one of the platforms where she could get away with shouting at (and possibly being abusive to) upper-class people.

¹⁹⁸ *N.W.E.*, 4/7/1871.

Williams Wynn wrote to Jones's solicitor and advised him to submit a petition to the Home Secretary for a pardon for the woman. This was done, and the appeal was successful (Figure 9.6).¹⁹⁹ Williams Wynn, and perhaps the Earl of Powis as Chairman of the Bench, may have felt a degree of humiliation from this affair. Certainly, the fiasco played into the hands of the barristers as will be shown.

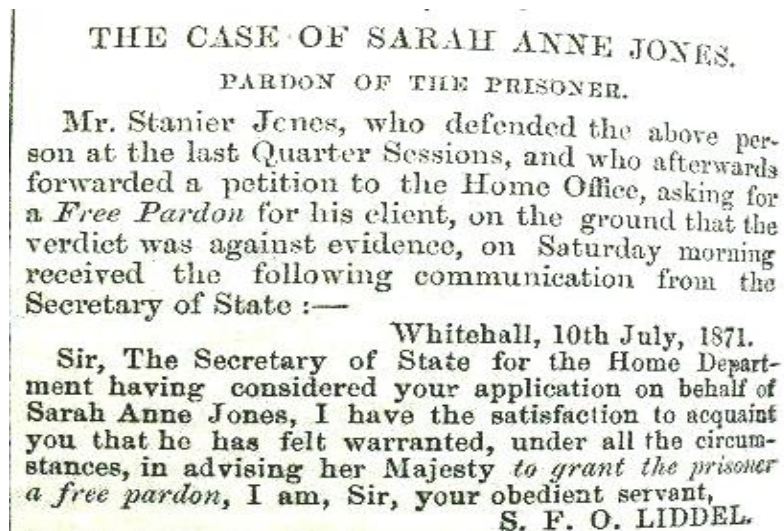


Figure 9.6: Notification of Sarah Anne Jones's pardon
(*The Newtown and Welshpool Express*, 18/7/1871)

Near the beginning of the same Sessions at which this failure of procedure occurred, a contingency of five barristers had submitted a petition to Williams Wynn. They asked for exclusive right of appearing and conducting cases at the Montgomeryshire Sessions which, they believed, was the only court of Quarter Sessions in which that right had not already been conceded.²⁰⁰ They promised that they would attend regularly and in such numbers as would be able to conduct the

¹⁹⁹ In King's study of pardons granted after Assize convictions in the two years 1787 and 1790, he found a variety of factors affecting pardoning decisions taken. These included previous good character, youth, old age, respectability and insanity. Sometimes it could be because the conviction was against evidence where it was clear that the prosecution was malicious, but never because the evidence presented had been appropriate for a different charge. King, *Crime, Justice and Discretion*, pp. 298-301.

²⁰⁰ According to Bentley, solicitors retained their rights at four [unnamed] county Sessions until the beginning of the twentieth century. (Bentley, *English Criminal Justice*, p.98).

business of the court.²⁰¹ Williams Wynn decided that the matter would be discussed and decided at the following Sessions. The barristers could not have predicted the furore that was to arise over the Thomas and Jones case and could not have realised how opportune for them their application was. It was the first matter discussed at the Michaelmas Sessions.²⁰² The Earl of Powis mentioned a possible saving of time by having cases argued by barristers, with only a ‘trifling’ increase in cost, but perhaps the most telling comment was from magistrate George Whalley who said, as reported in the newspaper:

He thought it would be well to introduce the gentlemen of the bar to the Quarter Sessions as they would be fresh from Westminster Hall where legal business was conducted in the best possible manner, and their presence at Quarter Sessions would tend to improve and facilitate the conduct of public business and be a consequent advantage in the administration of the law.

The only dissenting voice to the adoption of the application was Capt. Mytton’s. Perhaps he wanted to protect the interests of his relative, solicitor G. D. Harrison, who would lose business. He said he did not see why the court should grant an exclusive right to the barristers as long as there were local solicitors who had quite as much ability. One other magistrate seconded his move to reject the application, but the votes were cast in favour. This was a disaster for the solicitors, both in view of the fees they would lose and also with regard to their loss of reputation. It has been argued that these men had a power over others owing to their expertise, technical knowledge and accompanying mystery, all of which placed them above the common level of their fellow townsmen. Moreover, their fortunes partly depended on

²⁰¹ Lemmings discusses how barristers could not simply wait for work but had to actively look for it. They sometimes found business by creating and exploiting connections. D. Lemmings, *Gentlemen and Barristers* (Oxford, 1990), p. 113. Changing social and economic conditions encouraged individualists, and some barristers quickly took work wherever it was offered. Lemmings argued that these were often men from unconventional backgrounds and cites William Murray, the future Lord Mansfield, who was Scottish and had benefitted from a broad liberal education. Lemmings, *Gentlemen and Barristers*, p. 176. One is reminded of some famous Welsh barristers including Sir Ellis Jones Ellis Griffiths, and Sir Thomas Artemus Jones <http://wbo.llgc.org.uk/en/s-elli-jon-1860.html>; <http://yba.llgc.org.uk/en/s2-jone-art-1871.html> (both viewed 13/1/2012). See also *Without my Wig* (Blaenau Ffestiniog, 1944).

²⁰² *N.W.E.*, 24/10/1871.

successful mediation of their relationship with the public.²⁰³ Now the gentlemen on the Bench had demolished their status aided by the failure of the Jones case at Assizes.

Conclusion

The Assizes was a theatre at which Disraeli's two nations of the upper and lower orders was established at the very start of proceedings by pageantry and by the words of some judges. These words, and the general Anglican feel of proceedings, reinforced a locally-held perception of subjugation by the English establishment. Further demarcation was made during proceedings with the judge controlling business and making unilateral decisions over process and sentence that reinforced his status as the highest person in the court. This may explain why the aristocratic members of the Bench never appeared at the Assizes to take their seats in the grand jury. Sometimes judges might make comments that illuminated their opinion of the lower orders, and to which those individuals could not coherently respond. Employment of legal representation could also serve to define class but defendants, nearly always from the lower orders, were not necessarily cowed by this arena and in some cases were able to put forward their own successful defences or at least make spirited attempts. Notable are several suits involving women who, although disadvantaged and totally removed from the administration of justice, were nevertheless able to help themselves, sometimes with the aid of counsel. The court provided a unique situation for the lower orders to triumph lawfully over those sited further up the social scale, partly owing to the role of the petty jury which was composed of men lower in social rank than the gentry class. Sometimes the judge contributed to help the defence, notably in the case of a pregnant woman.

Stereotypes were seen or confirmed in court and these included the fallen woman, the pompous judge and the squire. The non-appearance in the dock of the gentry class reinforced the picture of the lower-class criminal. Generally, events tended to perpetuate these stereotypes, although the figure seen at the Montgomeryshire Assizes of the lower-order woman taking on the legal system single-handedly is a useful

²⁰³ J. Gerrard and V. Parrott, 'Craft, profession and middle-class identity: solicitors and gas engineers, c. 1850-1914' in A. Kidd and D. Nicholls, *The Making of the British Middle Class* (Stroud, 1998), pp. 150-51.

addition to D'Cruze's work.²⁰⁴ Reputations could be seen reinforced, sometimes upon direction of the judge as in the case of two conflicting surgeons. In one case, the reputation of a so-called 'gentleman of the county', supposedly setting a good example to the lower orders, was demolished by the very man himself who had pursued his case apparently solely to subjugate his tenant. The judge too might have possessed a reputation that preceded him and any comment or sentence given out by him during the business of the Assizes may have increased it, as was the case with Baron Bramwell. The court could also help to bolster the careers of barristers, and during the course of 1871 their reputation for efficiency at Assizes helped to oust local solicitors from having right of audience at Quarter Sessions.

²⁰⁴ S. D'Cruze, *Crimes of Outrage*. See also the study of prostitute Charlotte Walker's repeated appearances and successful self-defences at the Old Bailey during the later eighteenth century, see M. Clayton, 'The life and times of Charlotte Walker, prostitute and pickpocket', *The London Journal*, 33 (2008), pp. 3-19.

Chapter 10

Conclusion

Crime, Courts and Community

This study of the criminal justice system has allowed the nature of social relations to be investigated, as well as the place of the system in the lives of those it touched. The inspiration for this was the seminal *Making of the English Working Class* with its stress upon study of the ordinary person, and *Albion's Fatal Tree* which began courtroom analyses of those people's actions and experiences. While building on Peter King's work on discretion and Jennifer Davis's treatise on police courts in London, the present work gives a view from all sides and considers the contributions and experiences of all court users. It explores the county of Montgomeryshire in mid Wales which hitherto has been little studied, especially with regard to nineteenth-century crime or legal history. It also looks closely at the experiences of women and the contribution they made to courtroom events, following the groundbreaking footsteps of Garthine Walker by looking at gendered differences.

It was found that available options and personal choices resulted in a tailored justice system.¹ The project moved away from singular investigations of one type of court – Petty or Quarter Sessions, police court or Assizes – and looked instead at all the criminal courts to make comparisons and to study similarities and differences. Exploration of newspaper reports and other extant records examined the character of

¹ In his foreword to *Gender and Crime in Modern Europe*, Emsley writes that the ways in which rules and law are interpreted and enforced provide a valuable route into understanding the mores and values of particular societies.

people and places, and calls have been answered for furthering investigations begun by others on the effect of the environment, gendered and class experiences, and identity.² Important comparisons have been made between the nature of offending in the contrasting rural and urban areas of the county, and certain themes and individuals were found to cross from one chapter to another. The following conclusion will highlight and discuss these themes, beginning with a summary of the findings of the thesis.

Summary of chapter findings

The thesis began with Chapter 1 being a description of the aims and methodology to be undertaken, and historiography was discussed. Chapter 2 followed with an overview of the nature of the county, and an initial assessment of the area at once began to establish the several dualities of the environment: the rural and the urban, the agricultural and the industrial, the decayed and the prosperous, the hills and the plains. The polarities went on into the popular culture of the time for there was a distinct English character in the east, and strong Welshness in the west. The Church of England was strongly represented in decision-making bodies and although Nonconformists were far greater in number, they were less well represented. Conservatives were more representative of Anglicans, while Liberals in Wales were more aligned with Nonconformity.

Employment opportunities encouraged movement of people from one area to another, resulting in the demographic mixes that were present in most localities and in the constantly changing communities in urban centres. There were clear signs of control as when the local board in Newtown called for reform of open sewers that offended Sunday worshippers. There were signs of a community segregation with employers and gentry being associated with salubrious locations in notable houses which contrasted with many of the lower classes living in a mass of standardized

² As well as the works already cited by C. Harrison, B. Short, B. Cowell and N. Blomley, see R.N. Davidson, *Crime and Environment* (London, 1981); R.A.E. Wells, 'Social conflict and protest in the English countryside in the early nineteenth century: a rejoinder', *Journal of Peasant Studies*, 8 (1981), pp. 514-30; W.M. Ormrod, 'Law in the landscape: criminality, outlawry and regional identity in late medieval England' in A. Musson (ed.), *Boundaries of the Law: Geography, Gender and Jurisdiction in Medieval and Early-Modern Europe* (Aldershot, 2005), pp. 7-20.

housing often near stagnant filth. The idea of two environments ripe for criminal activity was engendered by the respective natures of townscapes and countryside. Present in the urban areas were pawnshops and close-packed dwellings, unemployment and itinerant labourers – situations that were recognised as genitors of crime. Present, too, were canal, road and railway, facilitators of a thief's opportunity for offending and getaway. The rural areas conversely provided isolated farms, livestock and crops in unattended fields, and hills across which to escape. Signs of control were apparent when landowners restricted access by enclosure, and there were indicators of conflict when new gentry and landed clergymen changed or usurped the rights of old families.

Chapter 3 looked closely at the justices. Behind the public face of the magistracy there was a duality on the Bench where the county justices held a superiority over their borough colleagues via noble connections, landed interests and wealth. Max Weber recognised this sort of stratification and argued that within classes there were status groups, identified by 'styles of life'.³ Property owning and income allowed unrepresentative appointment to decision-making bodies. This meant that there was necessarily a bearing on the appointment of Nonconformist ministers to such bodies, which led to debate and Chartist-like disagreement over reform.⁴ Social status also affected appointment to the Bench and it was argued in this thesis that debate on this subject took place. Ron Neale has described how the Victorians were very familiar with the many layers in society, and, for example, ranked people in terms of number of servants and size of estate.⁵ The same ranking differentiated the Bench and was enhanced by available county roles which were made available by a man's position in society, and appointment also increased his prestige. The constabulary could also be assessed in a similar manner, but here the discrimination was given named ranks, and further distinguished by housing and pay. This marks a difference between the motivating factors of the magistrates and the police: whereas the policemen could climb ranks and pay scales through hard work, the justices took on their roles because

³ M. Weber, 'Class, status, party' in Neale, *History and Class*, pp. 56-72.

⁴ One of the calls of the Chartists was for members of Parliament to be paid so that standing for election was not dependant on income. See 'Chartism' in Cannon, *British History*, p. 192.

⁵ Neale, 'Class and class consciousness', p. 72.

of who they were, or often to establish their status or make useful contacts. Some had no choice as they were magistrates through their positions on the local board in Welshpool, a status which immediately marked them out as those who had to earn a living. Social divisions, as observed earlier, were present in the built environment in the form of housing, and the system of justice stamped its mark on society through architecture, and reinforced the social stratification with features such as balconies and higher-status entrances for magistrates.⁶

Chapter 4 examined police operations, and it was found that although desired and appreciated by many, they could cause conflict especially when the men were perceived to be acting in an underhand, over-bearing or biased way. Residents with the ability to protest in writing could effect a change in police behaviour, whereas those who could respond only with fists, feet or verbal retorts were likely to feel the weight of the stave followed by a court appearance. People feeling aggrieved by the police could resort to standing up for themselves by turning the law onto the officers or through letters to the local newspaper. There was less of a police presence in the countryside, and when combined with the many hillsides and long distances between settlements, this meant there were opportunities for getting away with offences or meting out personal retribution. The distance travelled by a country policeman in the course of his duty, and the amount of time this travelling took, left scope for offending to go undetected, and the lack of officers in rural areas caused concern to some residents. Reaction to the police was differentiated and depended on whether police intervention was required or not. Some used the police as scapegoats for a wider dissatisfaction with lack of influence and decision-making ability, and some reacted

⁶ This may well have had the effect now known as ‘subliminal stimulation’, ‘exposure effect’ or ‘product placement’. In modern times, this technique is used to induce a positive effect on the viewer. See S. Ruggieri and S. Boca, ‘At the roots of product placement: the mere exposure effect’, *Europe’s Journal of Psychology*, 9 (2013), pp. 246-58. It has been found, however, that individuals are more likely to ‘buy into’ something with which they identify, therefore the majority of the Montgomeryshire community in the 1870s was unlikely to ‘buy into’ the justice system as represented in the built environment. See I. Zimmerman, ‘Product placement can be a lot more powerful than we think’, *Psychology Today*, viewed at <http://www.psychologytoday.com> (viewed 30/3/2014).

negatively to police control when deference they considered appropriate was not shown.⁷

The study of Petty Sessions in Chapter 5 saw the first appearance of women, although they were in no sense involved in the administration of justice. They appeared in the witness box, dock or public gallery and could bring a dispute that had crossed a boundary into the criminal sphere. Often the offence was one that occurred in domestic space, exacerbated by the close-packed and constricting environment in which they lived. The women, and all the others who brought cases to this court, were judged by their social superiors and an investigation was made into the discretion shown by these men. It was found that there was little, if any, sign of a 'ruling-class conspiracy' against the lower classes; in fact it was often the case that prosecutors used the court to conspire against each other. The justices were aware of this and remarked upon it in open court on at least one occasion. Some prosecutors also used the court to establish their rights, obtain retribution or restrain another party. Petty Sessions therefore enabled a degree of control for the ordinary person and could offer protection against, for example, a violent employer or spouse, or heavy-handed landlord.⁸ The police used the court as a means of controlling disorder that very often resulted from the consumption of alcohol. Forty percent of the offences brought to the Sessions by the constabulary were those of drunkenness or street disorder, rising to over 70 percent in Welshpool and Newtown, showing how the influence of the new police had changed the face of the justice system. In the remainder of the county, drunkenness and disorder accounted for around 30% of court appearances but the investigation discovered that this could have been due to under-reporting because of the lesser availability of policemen in rural areas as well as the countryside topography. The justices often gave the chief constable the result he wanted, inflicting stiff penalties particularly when an officer was injured in the course of his work. However, the notable discretion shown by the various Benches in their judgements meant that in some cases, particularly those where prostitutes were charged with street

⁷ See Bailey's analysis and discussion of working-class hostility being higher than that of middle-class shopkeepers in Bailey, *Policing and Punishment*, pp. 71-72, and of reasons for working-class hostility, pp. 72-76.

⁸ Philips discusses this point, arguing against E.P. Thompson's analysis of the poorer classes being unwilling to invoke the law at all, in Philips, *Crime and Authority*, pp. 127-9.

offences, the police did not achieve the outcomes they wanted, and we saw early indications of the new approach to vice where the client was held responsible. The magistrates used their discretion to suit local needs, which sometimes included giving the defendant the benefit of any doubt, or overriding advice from the clerk. There were a few occasions when a Bench may have been biased towards members of a particular group, and analysis of fines showed that they were basing fines on ability to pay. This showed the Welshpool area to be more affluent than the rest of the county and that the county as a whole was poor. It was interesting to note the finding that late nineteenth-century Montgomeryshire resembled eighteenth-century Essex, giving the mid-Wales county the appearance of backwardness. There was a case in which a Bench effectively gave a woman a prison sentence by initially handing out a bind-over order with financial bond attached which they knew she could not pay. It was possible, by analysis of sentencing, to define the bind-over order in nineteenth-century Montgomeryshire terms.

The study of Quarter Sessions in Chapter 6 revealed a court that had a very different complexion to the summary courts, firstly because theft was the predominant offence brought before the magistrates, and secondly because men of the more ordinary sort had major influences in the decisions made. Here we saw discretion in the hands of a more substantial part of the community and choices being taken away from the upper classes and placed in the hands of middle-class juries. Hierarchies were again present which contributed to a man's sense of identity, and in which status was symbolized in a very visible way by his seat in the jury box and through jury members' names being listed in the local newspaper. This identity was changeable, however, as a man could appear in different juries on two successive occasions.⁹ Jury members were often people who actively pursued prosecutions against offenders, and there were jurors who were also members of felons associations. This now introduced the phenomenon of ability to pay for justice, and investigation showed how available

⁹ In a similar way, the annual payment for seating in church or chapel followed a comparable pattern shared by upper and more lower-class people, whereby status was determined by location of the family pew or an individual seat which could change year by year. This was said to 'alienate the working classes' and to 'form divided and hostile social classes'. C.G. Brown, 'The costs of pew renting: church going and social class in nineteenth-century Glasgow', *Journal of Ecclesiastical History*, 38 (1987), p. 347; Snell and Ell, *Rival Jerusalems*, ch. 10, who rightly point out that the system was also pervasive in more lower-class denominations.

funds enabled and facilitated the pursuance of prosecution, and cooperation between better-off farmers and poorer ones was seen. We observed how a moneyed widow actively pursued a thief herself whereas a poor widow needed neighbourly support. The presence of two active felons associations suggests dissatisfaction with the police service provided, although Welshpool Borough Corporation gave a dinner in recognition of the force. Some members of the community were clearly more determined than others to see offenders brought to justice, and the associations were an extra support to the police.¹⁰

At the higher court, policemen often appeared representing women, and the protection of a respectable woman's sensibilities was a motivating factor for the police presence. There were also occasions when police took actions to keep middle-class men – jury material – on their side, and the deference to women could have been part of this as the women had spouses and other family members who were potential jurors. Although much discretion was removed from the magistrates in Quarter Sessions, the high sheriff manipulated the jury lists to allow more non-farmers into the box,¹¹ and there was also an opportunity for magistrates to exercise their own judgement in the dispensing of sentences. The jury system also allowed the magistrates to hand over the judging of a problematic situation. There were indications of different personalities appearing, also observed at Petty Sessions, with the leniency or kindness of Major Drew and Canon Herbert, contrasting with the perhaps heavy-handedness of Sir Watkin Williams-Wynn and John Robinson Jones.¹²

When the study moved from an enquiry that was related to decision makers to the investigation in Chapter 7 of defendants, prosecutors and witnesses at Quarter Sessions, there was a clear difference between the offending of men and women, particularly in regard to the locus of the offending event. Women rarely offended in isolated areas but often did so in their home locality, whereas men's offences took place in disparate locations. Intent was also shown to have a gendered nature as men stole clothing largely for financial gain whereas women usually retained the purloined

¹⁰ See comments in Schubert, 'Private initiative', p. 3.

¹¹ See p. 195.

¹² Godfrey detected signs of magistrates' personalities from their actions: Godfrey, *Cinderellas & Packhorses*, pp. 48-9.

items. The gendered nature of opportunity was seen to result in contrasting ranges of items stolen. The environment played a large part in these offences as not only were women's opportunities constrained to narrowly-defined locations, but their opportunities for making off after the event were limited and largely confined to known areas with physiology and clothing having a distinct bearing on this. The gendered nature of locus and getaway necessarily had implications for policing because women were easier to track down and apprehend.¹³ Crimes of violence were also gendered, as women very rarely committed such offences outside the domestic situation.

A deep level of trust was found among some employers which often meant that goods could be stolen with ease by employees. Determination was subsequently shown by the victims, often setting traps or cooperating with policemen to track down the guilty party. Many suspects confessed readily when apprehended but pleaded not guilty in court, and it seems likely that the ready confession was sometimes brought about by violence. While violence meted out from a parent or other authority figure to a child or to a tramp, or between husband and wife, was tolerated to a certain degree, violence between men, especially when a weapon was used, was regarded seriously and any embellishing of testimony by a witness was regarded poorly by the jury. In this way, the jury members exercised the same sort of discretionary judgements carried out by magistrates in the lower court.

In Chapter 8 it was seen that the chief constable showed a determination to root out and destroy prostitution and its associated crime and disorder. The women involved were often protected – or controlled – by rough men, but sometimes they worked alone on the streets. They had a distinct identity, and language directed at them by others on the street or when referring to them in newspapers, along with the chief constable's crusade, engendered a separateness that defined such women as a distinct group. An episode that might well have been male prostitution, but was not described as such, was discovered, with the high sentence imposed indicating that this was something particularly offensive to the jury and magistrates. The location of prostitute offences, or the disorder related to them, was often at or near public houses that

¹³ See pages 228-30.

resembled brothels, and contributed to the chief constable's campaign against such drinking places. A new attitude towards prostitutes, whereby the client was deemed responsible for theft offences, was being enacted in Montgomeryshire at this time, with many instances of low penalties or acquittals being given. Sometimes the Bench actually told the victim that it was his own fault, and it was clear that these thefts were regarded differently from other, similar offences, because prostitute thefts from other women, such as neighbours, were given considerably higher penalties. The women were thus accorded a degree of confidence when defending themselves against charges of theft from a man. Prostitutes themselves regularly brought charges against other women, and the results of the investigation show that the justices gave them same degree of discretion shown to others.

Finally, Chapter 9 examined class and which Chartists recognised as being linked, and made much of by novelists.¹⁴ The Assizes court had a direct effect on status as the magistrates were relegated to the grand jury box, and this may explain why aristocratic justices were not seen in the court, seeming to turn their backs on it. A domino effect occurred as those men who sat in the grand jury at Quarter Sessions were now in the petty jury at the Assizes, and the class of man who formerly occupied the petty jury in Quarter Sessions no longer had any role. Women were seen to be meeting the challenge of appearing at this highest-status theatre of justice and, with the assistance of legal representation, were generally not cowed and could win their cases.¹⁵

There were many instances where identities were established, bolstered or changed by the judicial system, and women were active throughout the public arenas of the court scene, even though they had no part to play in the administration of justice. Indeed, they were often key players in judicial situations despite being disadvantaged

¹⁴ As well as the examples of Edgar Linton and Mr Bingley referred to in Chapter 9, see, for example, descriptions of the magistrate, vicar and criminals in D. du Maurier, *Jamaica Inn* (London, 1936); prostitute and bully in C. Dickens, *Oliver Twist* (1837, London, 1990); barristers in C. Dickens, *Great Expectations* (1862, London, 1992); upwardly-mobile Michael Henchard in T. Hardy, *The Mayor of Casterbridge* (1886, London, 1994) whose position as a magistrate was completely undermined by the recollections of a disorderly, vagrant-like woman who showed herself adept at courtroom procedures (ch. 28).

¹⁵ In his early-modern study of Montgomeryshire, Humphreys identified a lower-class woman taking on a squire at the Court of Great Session. Humphreys, *Crisis*, pp. 250-1.

in day-to-day life. There have been examples of women encouraging other females within the court building and immediately outside, showing that the court system could act as a support for female solidarity. Control was exercised in various forms, most notably with the Bench directing procedures and in making judgements. Local bodies, with connections to the justice system via police activity, juries, and the general public's access to discretion, all exhibited control at times. The findings in this study do not find that the criminal justice system in mid-Victorian Montgomeryshire was an 'upper-class conspiracy to evoke deference' from the lower orders, even if at times some pompous language or behaviour was used.

Discussion of main themes

This thesis has constituted a microhistory – or rather a collection of microhistories – in a similar way as Le Roy Ladurie used depositions to write a village history that included family structures and women's positions¹⁶. Whereas some historians prefer to take a wider view,¹⁷ micro-historical topics expanded in the 1970s, and it has been found that 'individuals' actions become more visible under the microscope'.¹⁸ Illuminated by the methods and detail of such close study, three main general themes pervaded this thesis, namely class, status and gender.

As Michel Foucault discussed power at the level of factory, school, family and prison,¹⁹ the present work has considered power at the various levels within the criminal justice system that existed in the 1870s, and found that class and control were represented and promulgated through the court system. The close focus of the study enabled Marxist concepts of exploitation to be considered at a local level and clearly showed a contradiction of the view that historical change or conflict was brought about by friction between classes. It is true to say that the formal proceedings in the courts were the preserve of men higher up the social scale, those men who largely

¹⁶ E. Le Roy Ladurie, *Montaillou* (Harmondsworth, 1980).

¹⁷ P. Burke, *History and Social Theory* (Cambridge, 2005), p. 38.

¹⁸ Burke, *History*, p. 41. See also Muir and Ruggiero's comments that 'observation of trifles can lead to important conclusions, and that general conclusions can be drawn from local data. E. Muir and G. Ruggiero, *Microhistory and the Lost Peoples of Europe* (Baltimore, 1991), pp. vii-viii..

¹⁹ M. Foucault, *Power/Knowledge* (London, 1980).

controlled production, as reflected in the appointments of borough justices and former factory owners. As well as this, the overwhelming majority of cases seen were those involving the lower orders. Furthermore, middle-class defendants and witnesses were often given the privilege of avoiding Petty Sessions. There were occasions where attempts at class subjugation were seen, for example when a landowner tried to use the law to establish rights to a river crossing, or when an aristocratic justice was heavy-handed in sentencing a young thief. However, these attempts at subjugation remained nothing but attempts, for the circumspection and discretion that was demonstrated clearly at every level by magistrates and juries enabled a means whereby collisions and clashes were avoided, and provided a useful antidote to class discord. Where antipathy existed towards tithe payments, for example, Canon Herbert was able to use his discretion to temper the adversarial situations that might have arisen from his role in the established church. The investigations found that when conflict did arise, it was very often in the form of intra-level strife and very often in response to police action. One could argue that the police were the tools of the upper orders, and yet Chief Constable Danily often organised his men to suit his own sensibilities, and sentences handed out by justices sometimes went against police desires. In direct contradiction of Marxist principles, the working classes were seen to use the Petty courts for their own ends with common prostitutes being confident that the system would protect them.

Although the findings were not totally in agreement with the Marxist model of conflict, class did play a large part, particularly in reinforcing identity but here the term 'social stratification' may be more appropriate.²⁰ A particularly good fit is provided by Max Weber's 'status group' theory where a person's fate is determined by the status or honour accorded by others, and where the position of each status group is normally acquired at birth but can also be acquired by lifestyle. Examples that fit this model include former ploughboy P.C. Daniel Richards and ex-druggist William Fisher, J.P.²¹ Whereas Marx argued that conflict came about solely by economic differentials, Weber held that conflict, although often having an economic

²⁰ See G. Stedman Jones, *Languages of Class* (Cambridge, 1983); P. Joyce, *Visions of the People: Industrial England and the Question of Class, 1848-1914* (Cambridge, 1990); D. Cannadine, *Class in Britain* (New Haven, 1998); D. Feldman, 'Class' in P. Burke (ed.), *History and Historians in the Twentieth Century* (Oxford, 2002), pp. 181-206.

²¹ See Appendices for life stories.

factor, could be related the degree of prestige or influence held by an individual. Time and again this thesis showed how status differentials were present in clashes for example between police and drinkers; workmen and prostitutes; landowners and tramps, and in insults such as 'thou art nothing but a prostitute'. Psychological theory helped to explain that not receiving due acknowledgement of one's rising or superior status also led to conflict. The Weberian model was originally put forward as an alternative to Marx, and the results of this Montgomeryshire study are more in accord with it than the Marxist view. Identity as defined by status and lifestyles was seen in this study,²² and was on the streets for example negotiating a price with a client, dealing with employees or attending a land auction, and in court taking a seat on the Bench or in the jury box, arriving in a carriage, entering by a separate entrances and so on.

It has been said that 'women's history' now offers a new perspective on the past,²³ no longer overlooking female importance and influence through their everyday work and activities. The findings in this thesis shed new light on the offending event by analysing the getaway part of the offence, supporting Garthine Walker's contention that differences in crime were fundamentally gender-related,²⁴ and giving a new context for further investigations of police work and methods. The thesis also provides an answer to questions about women's influence,²⁵ as gendered bias in sentencing has been observed, and women's involvement in the tracking down and apprehending of suspects was explored. It is noteworthy that it was often only the women in court who observed discrepancies or made an effort to bring an issue to the attention of the person in the chair. It is interesting that Edwin Ardener has argued that women were able to express their ideas only through the language of the dominant males, and in this project too, time and again, the voice of the woman has come through in the records of the male-dominated courts. Yet although Ardener argued that whereas women's silence in many areas could be related to the 'deafness'

²² For more on this see A.P. Cohen, *The Symbolic Construction of Community* (Chichester, 1985). Also see comments in Burke, *History*, p. 58.

²³ J.W. Scott, 'Women's history' in P. Burke (ed.), *New Perspectives on Historical Writing* (Cambridge, 2001), pp. 43-70.

²⁴ See footnote 26, chapter 1.

²⁵ S. Rogers, 'The myth of male dominance', *American Ethnologist*, 2 (1975), pp. 727-57.

of men towards them,²⁶ the findings of the present investigation found many instances where, in court, they were listened to and note was taken of their points of view. This was true regardless of class, and court therefore provided an enabling environment.

Final comments and a view to the future

The justice system has proved to be an excellent and illuminating vehicle for the study of social relations. Further valuable work could be done on the changing input of women into the system in Montgomeryshire including the arrival of women on the Bench,²⁷ and in the police force after the second world war.²⁸ Magistrates lost their control of county administration when elected county councils appeared during the last decade of the nineteenth century, and it could be rewarding to investigate if their control in court also changed and if jury decisions altered at this time. Interesting details could be found in a study of Capt. Mytton's period as chairman of the county council investigating his interaction with his fellow council members. A comparative study of Montgomeryshire and an Irish county, such as Kilkenny, would contribute to existing important work, and provide cultural insight into differences in courts, crime and community. To date, most studies have focused on assessments within England, and the field of Celtic comparison has yet to be opened up.²⁹ Montgomeryshire

²⁶ E. Ardener, 'Belief and the problem of women', in S. Ardener (ed.), *Perceiving Women* (London, 1975), pp. 1-27.

²⁷ Report of the first Montgomeryshire woman magistrate, *M.E.*, 26/10/1920.

²⁸ Maddox does not give a date when women police officers joined the force, but mentions auxiliaries appointed at the beginning of World War 2 (*History of the Montgomeryshire Constabulary*, p. 18. A photograph of the county force on p. 28 dated 1946 does not show any women); see also Griffiths, *Police Forces*, p. 91. For details, see 'Women police' in Stead, *Police of Britain*, pp. 89-90 and I. Zweiniger-Bargielowska (ed.), *Women in Twentieth-Century Britain* (2001, Abingdon, 2014), pp. 210-11.

²⁹ See W. Walsh, 'Hard labour, hard board and hard fare: Kilkenny's gaols 1770-1900', *Ossory, Laois and Leinster*, 3 (2008), pp. 209-38; W. Walsh, *Kilkenny: the Struggle for the Land, 1850-82* (Thomastown, 2008); M. Urwin, 'They have been sent back to their desolate home, broken spirited and hopeless: Shanbogh, South Kilkenny, 1880' in F. Sweeny (ed.), *Hanging Crimes: When Ireland Used the Gallows* (Cork, 2005); E.M. Kennedy, *The Land Movement in Tullaroan County, 1879-1891* (Dublin, 2004); J. Fitzgerald, *Kilkenny City and County: People, Place, Faces* (Callan, 2003); P. O Machain, *Six Years in Galmoy: Rural Unrest in County Kilkenny, 1819-1824* (Dublin, 2004); M. O'Hanrahan, 'The tithe war in County Kilkenny, 1930-34' in W. Nolan and K. Whelan (eds), *Kilkenny: History and Society-Interdisciplinary Essays on the History of an Irish County* (Dublin, 1990); M. O'Donnell, 'Kilkenny and the reprieve of Thomas Bourke, Fenian, 1867', *Journal of the Kilkenny Archaeological Society*, 4 (1990), pp. 710-16; M. Luddy, 'Abandoned women and bad characters: prostitution in nineteenth-century Ireland', *Women's History Review*, 6 (1997), pp. 485-503; N. Howlin, 'Fenians, foreigners and jury trials in Ireland, 1865-70', *Irish Jurist*, 45

criminal history would also repay study in connection with land and tenant issues during the early twentieth century when many great estates were sold, and the Great War impacted on communities via conscription and horse requisitioning.³⁰ Moreover, more studies are needed on the effects during later periods of Welsh Nonconformity on the justice system.

As always, the agendas and questions seem to grow with each new study, yet it is hoped that this thesis sheds fresh light on the history of criminal justice and community in a fascinating and often-overlooked region of Wales.

(2010), pp. 51-81; R.B. Brown, 'A delusion, a mockery and a snare: jury selection in England and Ireland, 1800-50', *Canadian Journal of History*, 39 (2004), pp. 1-26; B. O'Donaghue, 'From grand juries to county councils: the effects of the local government (Ireland) Act of 1898' in F.M. Larkin (ed.), *Librarians, Poets and Scholars: a Festschrift for Donall O Luanaigh* (Dublin, 2007), pp. 172-97.

³⁰ See M. Beard, *English Landed Society in the Twentieth Century* (London, 1989); J. Davies, 'The end of the great estates and the rise of freehold farming in Wales', *Welsh History Review*, 7 (1974), pp. 186-212; C. Emsley, *Crime and Society in Twentieth-Century England* (Harlow, 2011); H. Taylor, 'The politics of the rising crime statistics in England and Wales, 1914-1960', *Crime, Histoire et Sociétés*, 2 (1998), pp. 5-28; R. Davies, 'Voices from the void: social crisis, social problems and the individual in south-west Wales, 1876-1920', in G.H. Jenkins and B. Smith (eds), *Politics and Society in Wales, 1840-1922: Essays in Honour of Ieuan Gwynedd Jones* (Cardiff, 1998), pp. 81-91; K.I. Wolpin, 'An economic analysis of crime and punishment in England and Wales, 1894-1967', *Journal of Political Economy*, 86 (1978), pp. 815-40.

Appendix 1: Bench Histories

Name	Birth details	1851	1861	1871	1881
Adams, William Henry	1835. Boston, Lincs., son of barrister.	Boston, Lincs.	Magistrate and lieutenant in yeomanry, living at Plas Llyssyn, Carno. Married, at least three children. Five live-in servants.		
Barrett, Thomas	1816. Shrewsbury,	Surgeon, living in Severn Street. One live-in servant	Living in Cheshire with brother in law and sister.	Surgeon, living in High Street, two live-in servants.	Living in High Street, Welshpool with wife, daughter and two live-in servants. Magistrate.
Bayard, John	1823, Madras		Retired army lieutenant. Living at 6 Park Street, Richmond. Three live-in servants.	Landowner and magistrate living at Gwernydd, New Mills. Married, at least three daughters. Son at Cambridge. Two live-in servants.	Gwernydd, New Mills. Two live-in servants.
Beadnell	Could not trace				

Blythe, Joseph	1819, Shropshire		Flannel merchant, living with wife, two sons and daughter, Milford Cottage. Two live-in servants	Flannel merchant, living in Hendidley Hall, Newtown. Employing 11 workers. Two live-in servants	Merchant & J.P., staying with son and daughter-in-law, Surrey.
Bonner Maurice, Robert	1805, London. Father had been a High Sheriff			On holiday, Isle of Wight. Married, at least one son, undergraduate at Oxford.	
Bonsall, Thomas	1821, Llanbrynmair, Montgomeryshire	Attorney, living in Maengwyn Uchaf, Maengwyn Street, Machynlleth. Unmarried, one live-in servant.		Magistrate living at Fronfraith, Commins Coch. Married, at least three children. Governess and six live-in servants, and live-in farm bailiff.	
Botfield, William Bishton Garnett	1817, Haughton Hall, Nantwich, Cheshire			Clergyman and J.P. living at Decker Hill Hall, Shifnal, Shropshire. Widower, three daughters and one son at Oxford. Governess and eight live-in servants.	Magistrate. Married to second wife, three daughters at home, second son at Oxford. Nine live-in servants.
Bowen, Thomas	1806, Llanwnnog, Montgomeryshire	High Street, Welshpool		Banker and magistrate living at 41 Broad Street, Welshpool. Married no known children. Mayor 1870.	

Brooke, John	1834, Shropshire, son of Anglican minister				Living with widowed father, two brothers and 15 live-in servants. More in neighbouring cottages.	Landed proprietor and JP, wife (earl's daughter), two sons, one daughter; eight live-in servants.
Browne, Thomas	1806, Cyfronnydd near Welshpool	Inspector of schools in Pontefract. Married to Mary Anna. Three daughters, one son, born Surrey, Sussex, Isle of Man and Germany. Four live-in servants.	Inspector of schools, staying at Royal Station Hotel, York.		J.P. and inspector of schools, living at Mellington Hall with grown-up daughter and four live-in servants.	
Cleaton, Edwin	1806, Llanidloes	Flannel manufacturer, living with wife and daughter in Bryn Lllys, Llanidloes. One housemaid.	Flannel manufacturer, Vaenor Park, Llanidloes. Two live-in servants.		No occupation except magistrate given. Living at Vaenor Park. Three live-in servants.	Manager of woollen factory, Llanidloes. Widower. At least one son and one daughter.
Conroy, Sir John	1845, Kensington	Living with parents, Arborfield, Middx. Grandson of Sir John Conroy, Queen Victoria's tutor. Six live-in servants	Living with widowed mother and four servants, Arborfield. MA Oxford		Living with mother and three live-in servants, Arborfield	
Corbett, William	1820, London son of county court judge		Living with parents, Aston Hall, Shifnal, Staffs.		Retired from army; magistrate. Living at Vaynor Hall, Berriew. Seven live-in servants. Not married.	Now with surname Corbett - Winder. Married, at least three children. 14 live-in servants plus two gardeners in cottages.
Corrie, John Davies	1796, Vauxhall	Dyserth, Near Welshpool. Three live-in servants.	Magistrate; visiting Gerrards Cross.		Visitor, Winchester. Magistrate and Deputy Lieutenant Montgomeryshire. Married, at least one daughter.	

Crew-Read, Malcolm Offley	1822, Shropshire		Commander, HMS Cumberland.		Magistrate, living with wife and son in Llandinam Hall. Three live-in servants	Retired Royal Navy captain and Deputy Lieutenant Montgomeryshire. Staying in lodging house, Portsea, with wife. No apparent children.
John Crewe-Read	1849, Gloucester	At school in Kent			Magistrate. Living with parents in Llandinam Hall.	
Davies, John Price	1823, Newtown, son of clergyman	Living with parents. Four live-in servants.	Living at Bron Felen, Maesmawr. Four live-in servants.		Staying at Dolforwyn Hall, Abermule	Landowner and magistrate. Living at Bronfelin, Caersws. Four live-in servants.
Davies, Joseph	1802, Machynlleth	Army captain, living at Brynglas Hall, Llanfair. Five live-in servants.	Retired from army, magistrate. Living at Brynglas Hall.		Magistrate. Brynglas Hall. Never married. One live-in servant.	
Drew, John Pryce	1811, Newtown	Clergyman living at Milford House, Newtown. Three live- in servants.	Magistrate, living at Milford Hall, Newtown. Three live- in servants.		Milford Hall. Magistrate. Never married. Five live- in servants.	
Dugdale, John	1822, Lancashire, son of calico printer, later landed proprietor and farmer		Landed proprietor. Living in Eccles with wife, three sons, two daughters, 12 live-in servants.		Landowner. Living with wife, two sons, four daughters and 11 live-in servants near Hyde Park.	Retired cotton merchant. Living at 9 Hyde Park Gdns with wife, three daughters and one son in law.
Evans, John	1809, Cardiganshire		Vicar of Llangurig. Living in vicarage next door to police station. One live-in servant.		Vicar of Llangurig and magistrate. Unmarried. Two live-in servants.	

Fisher, William	1814, Chelsea	Druggist, living in Liverpool with father and siblings. Unmarried.	Landed proprietor living in Maesfron House near Welshpool. Married. Two live-in servants and wife's two aunts.	Magistrate. Living at Maesfron with wife and four live-in servants.	Still at Maesfron with wife and three live-in servants.
Frost, Thomas Gibbon	1821, Chester	Miller, working with father and brother. Living at 37 Egerton Street, Chester. Two live-in servants.	Miller, employing 50 men. Living at Queens Park, Chester. Six live-in servants.	Knight, magistrate, landowner, corn miller employing 77 men. Living at Redcliff, Queen's Park, Chester. Son and two daughters, seven live-in servants. Brother and family living next door.	Knight, J.P., High Sheriff of Montgomeryshire. Corn miller employing 71 men and 2 women. Still living in Redcliff, eight live-in servants.
Gill, Thomas	1812, Llanfechain, son of landed proprietor and farmer	Living with parents and sisters at Rhiwargor, Llanwyddyn.	Landed proprietor and farmer, living with unmarried sisters and four live-in servants at Rhiwargor, Llanwyddyn.	Living at Brynderwen, Llanfechain with unmarried sister and five live-in servants.	Magistrate and farmer living at Brynderwen. Five live-in servants.
Gough, Richard Douglas	1800, Ystradgynlais, son of industrialist	Living in Ynysgedwyn House, Ystradgynlais, with wife and five children. 13 live-in servants	Living with wife and six children in Little Livermere, Suffolk. Landed proprietor. 19 live-in servants	Widower living with son and four daughters at Ynyscedwyn House, Ystradgynlais. 19 live-in servants. Landed proprietor	Living in Ynysgedwyn House with one daughter and seven live-in servants.
Hammond-Whalley, George	1813, Gloucester, son of merchant and banker	Magistrate. Living in Plas Madoc Hall, Wrexham, with wife, and two daughters. Nine live-in servants.	M.P. and deputy lieutenant of Denbighshire. Living with wife, third daughter and son. Seven live-in servants		Living in Ruabon with wife, son and daughter. Four live-in servants.

Hanbury-Tracy, Hon, Charles Douglas	1840, son of 2nd Baron Sudeley of Toddington		Liberal M.P. for Montgomeryshire; married to daughter of Hon. Frederick Tollemache.	Became 4th Baron Sudeley in 1877 on brother's death. Lived in Gregynog Hall, near Newtown.	Member of Privy Council
Hanbury Tracy, Hon Henry	1802, Gloucestershire. Son of 1 st Lord Sudeley	Former Whig M.P. for Bridgenorth; married to daughter of Viscount Tamworth. Deputy Lieutenant for Montgomeryshire.			
Hare, Thomas William	1806, Staffordshire		Landed proprietor living with wife and four live-in servants in Warwickshire.	Magistrate, staying with wife in lodging house in Paddington	Living in Speldhurst, nr. Tunbridge Wells, Kent with wife and aged sister in law. Four live-in servants
Harrison, Edward T. D.	1821, Welshpool			Magistrate and surgeon. Living at 7 High Street, Welshpool with wife and three children. Five live- in servants. Mayor 1868- 69	Magistrate and surgeon. 7 High Street, Welshpool.
Harrison, Robert J.	1804, Ireland		Clerk in holy orders, living at Caerhowell, near Montgomery. Four live-in servants. Widower.		
Herbert, John Arthur	1808, Penstrowed, Montgomeryshire	Rector of Penstrowed, still in Glanhafren. Married, 6 live-in servants. Glanhafren inherited from his mother.	Rector of Penstrowed.		

Heyward, Edward	1824, Guilsfield		Barrister (not in practice), farmer, landowner living at Trawscoed Hall, Guilsfield with wife. High sheriff of county. Six live-in servants.	Barrister not in practice, farmer, deputy lieutenant, major in militia. J.P. Eight live-in servants.	B.D. from Oxford, J.P., D.L., Hon. Col. in Militia, farmer. Three live-in servants.
Hilton, Edwin	1807, Failsworth, Lancashire	Silk merchant, staying with wife, two children and servant near Southport.	Silk merchant, living at Oak Bank, Rusholme with wife and three children. Governess and three live-in servants.	Retired, widower. Three live-in servants.	
Howell, Abraham		Attorney, living with wife in Severn Place, Welshpool		Attorney and solicitor, living with wife, daughters & grandsons; several live-in servants, Berriew	Magistrate, living with wife, two sons and three daughters at Rhiewport Hall, Berriew
Humphreys, Richard.	1799, Montgomery, son of barrister.		Unmarried and living at Bank House with grown-up daughter and three live-in servants. Daughter born in Peru and appears to have been adopted.	Unmarried and living in Kerry Road, Montgomery with grown-up daughter and four live-in servants.	
Humphreys-Owen, Arthur	1836, Berriew	Pupil at Harrow	Visiting Lythe Hall, Shropshire; lately graduated from Cambridge	Barrister	Barrister and landowner
Hunter, Charles	1802, London		Living at Mountsevern, Llanidloes with wife, two daughters and four live-in servants including coachman.	Retired lieutenant Colonel; landowner, magistrate. Living at Mountsevern, Llanidloes with wife, two daughters and three live-in servants	

Jones, Richard E.	1828, Newtown				Magistrate and landowner. Living at Cefn Bryntalch. Married, at least two daughters and one son.
Kirkham, John	1828, Mold	Chaplain, staying at Pantyfelin Hall, Llantysilio, Denbys. with wife and daughter. Three live-in servants (house belonged to someone else).		Rector of Llanbrynmair, living at rectory, Dolgadfan; two live-in servants.	Rector of Llanbrynmair, living at rectory, Dolgadfan. Two live-in servants.
Kitto, John				Staying in London hotel on night of census but wife is present in house in Long Bridge Street, Llanidloes with two sons and one daughter. Two live-in servants.	Mining engineer living at Vaenor Park, Llanidloes with wife, five daughters, one son and four live-in servants
Leslie, Henry	180,3 London			Musical artist living in Mayfair with wife, two sons and daughter, four live-in servants	J.P. for Shropshire and Montgomeryshire, living in London with wife, son & daughter and three live-in servants. Listed as musician and composer
Lloyd, John	1811, Llanemewrig, Montg.,	Living in Kerry Street, Montgomery	Magistrate. Living in Broad Street, Montgomery	J.P. for county. Living in Castell Forwyn, Abermule	Clerk in holy orders without care of souls. Living in Castell Forwyn, Abermule. Widower with at least three children.
Lloyd, Maurice	1803, Llanemerwig, Mont.			Vicar of Montgomery, married three children. Five live-in servants.	

More, Robert Jaspas	1837, Shropshire son of clergyman	Pupil at Shrewsbury School.	Law student lodging in Hastings, with sister.	J.P. lodging in Conduit Street, Westminster. Unmarried.	
Morgan, William Rev.				Vicar of Kerry, living in The Moat, Kerry	
Morris, Thomas	1835, Welshpool, son of mercer	Living with parents in Broad Street.	Living with parents in Broad Street	Mayor of Welshpool, married living in Henfaes Lane. Three small children, governess and three live-in servants.	Auctioneer and alderman, living 1t 14 Broad Street. One live-in servant.
Mytton, Devereux H	1833, Bengal			Magistrate and farmer of 520 acres. Living with siblings at Garth Hall, Guilsfield. Brother at Cambridge.	Magistrate and farmer. Living with wife and children at Garth Hall. 12 live-in servants.
Naylor, John	1815, Liverpool			Banker, landowner, deputy Lieutenant, JP. Living at Leighton Hall with seven daughters and two sons. 19 live-in servants	Banker, Farmer, JP. Staying with son and daughter-in-law, two granddaughters two daughters, Brynlywarch Hall near Newtown. Nine live-in servants
Parker, Griffith.	1806, Llanerfyl		Living in Broad Street, Welshpool; wine merchant. Married, at least one son and five daughters. One live- in servant.		

Parker, W.T.	1833, Welshpool, son of draper and magistrate		Living with parents and siblings in Broad Street. Father now wine merchant.	Magistrate and landowner, officer in militia. Staying with sister and brother in law in Moseley near Birmingham. Mayor of Welshpool 1869-70	Magistrate living at 21 Severn Street, Welshpool. Married, two small children
Perrott, Robert	1816, Llangantffraid. Father had independent means.	Farmer, living with wife and son next door to parents. Four live-in servants.	Living with family in Bronhyddion. At least three sons and two daughters. Governess and six live-in servants.	Living with family in Bronhyddion. Governess and seven live-in servants.	Living with family in Bronhyddion. Five live-in servants.
Powell, Samuel	1816, Bishops Castle, Shropshire son of currier		Currier, Gungrog Fawr, Welshpool; married.	Borough magistrate, currier and landowner; Severn Street, Welshpool. Married, at least two daughters and one son. One live-in servant.	Borough and county magistrate; currier and leather factor. 12 Severn Street. One live-in servant.
Powis, Earl of	1818, son of 2nd Earl.	Commanded South Salopian Yeomanry	J.P. in Montgomeryshire, Herefordshire and Shropshire. Lived in Powis Castle.	Lord Lieutenant of Montgomeryshire from 1877. Chairman of Shropshire Union Railways.	Never married.
Pryce, Robert Davies	1821, Machynlleth		Living in Cyfronydd Hall, near Welshpool. Nine live-in servants.	Deputy Lieutenant of county. Cyfronydd Hall, wife and three sons. Countess of Mar visiting.	Cyfronydd Hall. Deputy Lieutenant. Eight live-in servants.
Robinson Jones, John	1803, Berriew	Magistrate. Living at Brithdir Hall. Four live-in servants.	Magistrate. Living at Brithdir Hall. Three live-in servants.	Magistrate. Living at Brithdir Hall. Never married. Four live-in servants.	

Stephens, John	1829, Llandyssil, Montgomeryshire son of farmer	Living with family at White Hall farm, Llandyssil. Three live-in farm servants.	Living with widowed mother and brother at White Hall farm, Llandyssil. Three live-in farm servants.	Living at Womaston Farm, near Presteigne with wife and daughter. Two live-in domestic servants.	
Sudeley, Lord Charles	1837, son of 2nd Baron Sudeley of Toddington	Captain in the Grenadier Guards.	3rd Lord Sudeley; Lord Lieutenant of Montgomeryshire	Lived in Gregynog Hall near Newtown.	
Thruston, Charles Frederick	1824, Towyn son of Royal Navy captain	Living with widowed father and sister in Talgarth Hall, Pennal, Machynlleth. Seven live-in servants.	Magistrate. Living with wife and three daughters, three sons in Talgarth Hall, Pennal, Machynlleth. Five live-in servants.	Magistrate and landowner, Talgarth Hall. Four live-in servants.	Esquire, Talgarth Hall. Four live-in servants.
Trevor, Edward	1827, Anglesea	Magistrate and landed proprietor. Living in Llandrinio; married	Living at Trawscoed, Guilsfield	Living in Penylan Hall, Guilsfield. Daughter (17) born in Ireland Widower. Magistrate and Deputy Lieutenant. At least four sons and one daughter.	Justice of the peace. Living in Derwen, Guilsfield; neighbour of Mytton. Two live-in servants.
Vane, Earl, later Marquess of Londonderry	1821, son of 2nd Marquess of Londonderry	M.P. for Durham North. Married to daughter of of Sir John Edwards, Bt.	Managed father-in-law's estates	J.P., lived at Plas Machynlleth.	Lord Lieutenant of County Durham
Whitaker, William	1834, Lancashire son of landed proprietor			Living with brother and family at Houghton Hall, Shropshire. Three live-in servants	Living with wife in Totterton Hall; Daughter and son and five live-in servants
White, Robert	1812, Surrey	Perpetual curate of Churchstoke; visitor at Heletts House, Prestbury, Glos. with wife (possibly wife's parents).	Vicar of Churchstoke, living in vicarage, five live-in servants.	Vicar of Churchstoke and magistrate, living in vicarage, four live-in servants.	Vicar of Churchstoke. Five live-in servants.

Wilding, Reverend	1825, Welshpool	Curate of Churchstoke, Lodging at Bacheldre Hall.			Vicar, Upper Arley, Staffs. Wife, son, sister and two live-in servants.
William Morgan				Vicar of Kerry, living at The Moat, Kerry.	
Williams, John Buckley	1808, Berriew	Farmer of 120 acres. Living at Glanhafren, Dolforwyn near Newtown, with wife, two sons, two daughters and three live-in servants.	Magistrate, still living with family at Glanhafren. Governess and five live-in servants.	Living at Dyffryn Hall with two sons, a daughter, nephew and four live-in servants.	
Williams, William	1807, Denbigh	Vicar of Llanrhaiadr ym Mochnant. Living in Vicarage. Married, two sons. Three live-in servants.	Vicar of Llanrhaiadr ym Mochnant. Two live-in servants.	Vicar of Llanrhaiadr ym Mochnant. Two live-in servants.	
Wynn, Charles Watkin Williams	1822, son of Rt Hon. Charles Watkin Williams-Wynn	Married to daughter of 2nd Earl Manvers	Barrister; Recorder for Oswestry. Elected M.P. for Montgomeryshire in 1862.	J.P.; Lived at Coed-y-Maen Hall, Meifod.	
Woosnam, Richard	1816, Llanidloes	Surgeon, living at Government House, Madras. Married, five children, three born in India. Family owned properties in mid Wales	Living in Gloucestershire with family.	Retired surgeon and J.P. living in Great Oak Street, Llanidloes with wife and five adult offspring; one son at Cambridge. Four live-in servants.	Retired surgeon, J.P. Living in Glandwr House, Llanidloes. Six live-in servants.
Wright, Phillip	1846, Derbyshire son of banker and industrialist	Living with family on 5000 acre estate in Derbyshire		Landowner, ironmaster & J.P. 18 live-in servants	Magistrate Montgomeryshire, Derbyshire, Shropshire

Appendix 2: Police Histories

Surname	1851	1861	1870	1871	1881	1891	1901
Ashton	Shoemaker, Llanwnnog			P.C. Meifod, married seven children			
Bebb			P.C. Llanrhaidr ym Mochnant				
Bowen	P.C. Machynlleth			P.C. Penybontfawr, married one grown up son	Ex. police officer, living Llanfechain		
Breese		P.C. Newtown living in Turner's Yard		P.C. living in Llandysilio	Sergeant of Police, Welsphool		
Breese				P.C. living in Llanfair, married seven children	P.C. Llanfair	P.C. Montgomery	
Brown			P.C. Newtown				
Clayton		Shoemaker, Welsphool		Was Inspector in Welsphool 1869 but was in Liverpool on 1871 census as P.C. Toxteth			

Crowden	Living with beer house keeper father and family in Bridgewater	Living with family in pub in St Mary's St., Cardiff		P.C. Newtown living in Llanfair Road near Mount Pleasant	P.C. Newtown, living at Police Stn.	Supt of police, living at 25 Crescent St., Newtown	
Danily	P.C. Berriew, lodging at Lion Inn. Son of Shropshire farmer. On day of census, Danily had been a P.C. for 27 days.	Inspector, Newtown, living in Crescent St		Montgomeryshire chief constable, living 'Homestay', Llanfair Road, Newtown.			
Davies	P.C. Llanerfyl, married four children	P.C. Llanfair Caereinion		P.C. Llanerfyl	Postmaster, Llanerfyl	Postmaster, Llanerfyl	
Davies	P.C. in Llanfantffraid. Married, one son.	Sgt Llanidloes.		Inspector, Newtown	Inspector, Newtown living in Park Street.		
Edwards	Shoemaker, Llanfihangel	P.C. Llanbrynmair		P.C. Llanbrynmair, married four children			
Edwards	Flannel weaver, Caersws			P.C. Llangurig, married	P.C. Llangurig	P.C. Machynlleth, with second wife.	Retired Police officer, Llanwnnog
Ellis	Sawyer, Main near Llanfyllin	P.C. near Llangurig		P.C. Welshpool, living at New Road station	Supt of police, Welshpool, 25 High St.	Receiving pension and living in Salop Road, Guilsfield	
Harries			P.C. lodging in Horse Market, centre of Newtown				

Hudson		P.C. Newtown		P.C.(?) Kerry	P.C(? sgt by 1876). in Newtown living in Bryn St		
Humphreys				P.C. Llanidloes married four children	P.C. Cemnaes	Sgt Llanidloes, seven children	
Jones	P.C. Tafolwern	P.C. Llanidloes		P.C. Llanfyllin	Grocer/ receiving superannuation		
Lewis	Boy on grandfather's farm	Farm labourer, Berriew		P.C. Churchstoke, married three children	P.C. Welshpool	P.C. Llandysilio	
Lewis				P.C. Welshpool, lodging in Church Street			
Little	Scholar	Ag. labourer		P.C. Birmingham.	Railway porter	Deceased, widow remarried to Newtown blacksmith	
Lloyd							
Owen	P.C. Llanidloes, At least 5 children	P.C. Montgomery		Sgt., Llanidloes, married to second wife	Superannuated . 5 children from second marriage		
Pearson				P.C. Llanwnnog	P.C. Llanwnnog	Retired Llanwnnog. 40 year old daughter living with him and wife.	

Poole		Labouring		P.C. Tregynon, lodging with grocer	P.C. Berriew, living at centre of village		
Richards	Possibly miller's son			P.C. Buttington living in Burns Lane; married one daughter	P.C. Meifod; two more children	Agricultural labourer, Welshpool	Agricultural labourer, Welshpool; taking in boarders inc. police officer
Richards	At school	Carter on farm		P.C. Newtown, living in Severn Place			
Roberts	Servant in Aberhafesp Hall	P.C. Berriew		P.C. Machynlleth	P.C. Montgomery, living in station	Labourer, Llandysilio	Superannuated, Llandysilio
Rogers				P.C. Guilsfield	P.C. Llandysilio	Possibly Water rate collector, Shropshire.	
Ross			Sgt Newtown		Sgt In Coventry, first wife deceased	Deceased. Widow working as cotton filler taking in three lodgers.	
Sibbald	On father's farm, Carmarthenshire			P.C. Berriew, married	Sergeant Llanidloes		
Strefford	P.C. Llandysilio			Sup Newtown 1869, not on 1871 census			

Tanner		Groom on farm, Aberhafesp		P.C. Welshpool, lodging in Hopkin's Passage	P.C. Kerry, living two doors away from New Inn	Living at Newtown Police station, Severn Place. Listed as both sgt and Chief Constable.	
Thomas				P.C. Cemmaes, married to Frances, six sons	P.C. Llanbrynmair	Dyer, Frolic St, Newtown. Two daughters.	
Thomas	Woollen spinner, Pool Road, Newtown	P.C. Meifod, married		P.C. Montgomery, three children	P.C. Welshpool	Alberbury (Oswestry), working on own account	Retired Police officer, Bausley village
Vaughan				P.C. Llanrhaiadr, married	Sup. of police, Denbighshire	Sup. of police, Denbighshire	Ex. Dept Chief Constable of police, Denbighshire
Watkins			P.C. Newtown				
Watkins				P.C. Churchstoke			
Williams				P.C. Llansantffraid	P.C. Machynlleth	P.C. Forden, living in station	

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